

1 LEWIS BRISBOIS BISGAARD & SMITH LLP  
STEPHEN H. TURNER, SB# 89627

2 E-Mail: [Stephen.Turner@lewisbrisbois.com](mailto:Stephen.Turner@lewisbrisbois.com)

LARISSA G. NEFULDA, SB# 201903

3 E-Mail: [Larissa.Nefulda@lewisbrisbois.com](mailto:Larissa.Nefulda@lewisbrisbois.com)

633 West 5<sup>th</sup> Street, Ste. 4000

4 Los Angeles, CA 90071

Telephone: 213.250.1800

5 Facsimile: 213.250.7900

6 Attorneys for Defendants  
GOLDSMITH & HULL, APC and  
7 WILLIAM I. GOLDSMITH

8 UNITED STATES DISTRICT COURT  
9 CENTRAL DISTRICT OF CALIFORNIA

11 POVILAS KARCAUSKAS, on behalf  
12 of himself and all others similarly  
situated,

13 Plaintiff,

14 vs.

15 REGRESO FINANCIAL SERVICES  
16 LLC; GOLDSMITH & HULL, APC;  
17 WILLIAM I. GOLDSMITH; and  
DOES 1 to 10;

18 Defendants.

CASE NO. 2:15-cv-09225-FMO-RAOx

**DECLARATION OF LARISSA G.  
NEFULDA IN SUPPORT OF  
DEFENDANTS GOLDSMITH &  
HULL, APC AND WILLIAM I.  
GOLDSMITH'S EX PARTE  
APPLICATION TO EXTEND THE  
TIME PROVIDED BY LOCAL  
RULE 37-2.2 TO PROVIDE  
DEFENDANTS' PORTION OF THE  
STIPULATION BY ONE WEEK**

Trial Date: March 21, 2017

[Hon. Fernando M. Olguin  
1

22  
23 **DECLARATION OF LARISSA G. NEFULDA**

24 I, Larissa G. Nefulda, declare as follows:

25 1. I am an attorney duly admitted to practice in all of the courts of the  
26 State of California and the United States District Court for the Central, Southern,  
27 Eastern and Western Districts of California. I am a partner with Lewis Brisbois

28 4813-5502-4184.1

1

DECLARATION OF LARISSA G. NEFULDA IN SUPPORT OF DEFENDANTS GOLDSMITH & HULL, APC  
AND WILLIAM I. GOLDSMITH'S EX PARTE APPLICATION TO EXTEND THE TIME PROVIDED BY LOCAL  
RULE 37-2.2 TO PROVIDE DEFENDANTS' PORTION OF THE STIPULATION BY ONE WEEK

1 Bisgaard & Smith LLP, attorneys of record for Defendants GOLDSMITH & HULL,  
2 APC and WILLIAM I. GOLDSMITH (collectively “Defendants”). The facts set  
3 forth herein are of my own personal knowledge, and if sworn I could and would  
4 competently testify thereto.

5 2. On September 13, 2016, at 3:29 p.m., I received an email from  
6 Plaintiff’s counsel, Robert Stempler, with three documents attached. In the email,  
7 Mr. Stempler requested that we provide him with Defendants’ portion of the Joint  
8 Stipulation to Plaintiff’s Motion to Compel further responses as to Defendants,  
9 within one-week pursuant to Local Rule 37-2.2.

10 3. Attached hereto as Exhibit 1 is a true and correct copy of Mr.  
11 Stempler’s September 13, 2016 email.

12 4. Attached hereto as Exhibit 2 is a true and correct copy of the “Exhibits  
13 to be submitted with the Joint Stips,” which were attached to Mr. Stempler’s  
14 September 13, 2016 email.

15 5. Attached hereto as Exhibit 3 is a true and correct copy of the “Joint Stip  
16 re Motion to Compel as to C&H,” which were attached to Mr. Stempler’s  
17 September 13, 2016 email.

18 6. Attached hereto as Exhibit 4 is a true and correct copy of the “Joint Stip  
19 re Motion to Compel as to Mr. Goldsmith,” which were attached to Mr. Stempler’s  
20 September 13, 2016 email.

21 7. On September 14, 2016, at 12:20 p.m., I sent Mr. Stempler an email  
22 requesting one additional week to respond because my co-counsel, Stephen H.  
23 Turner, was dealing with health and personal issues. I also advised that I was  
24 working on a major motion in an unrelated case which was taking up the majority of  
25 my time. Attached hereto as Exhibit 5 is a true and correct copy of my September  
26 14, 2016 email.

1           8.       On September 14, 2016, at 12:36 p.m., Mr. Stempler responded to my  
2 email stating, "I am not able to grant your request for an extension to send us the  
3 defendants' response for the Joint Stipulations." Attached hereto as Exhibit 6 is a  
4 true and correct copy of Mr. Stempler's September 14, 2016 email.

5           9.       Pursuant to Magistrate Judge Rozella A. Oliver's Rules and Local Rule  
6 7-19 and 7-19.1, I left a voice message with Plaintiff's counsel, Robert Stempler<sup>1</sup>,  
7 on September 14, 2016, at approximately 2:15 p.m. and Plaintiff's co-counsel, Rand  
8 Bragg<sup>2</sup>, on September 14, 2016, at approximately 2:20 p.m., to advise that we would  
9 be appearing ex parte to request a one-week extension of time to provide  
10 Defendants' portion of a Joint Stipulation to Plaintiff's Motion to Compel further  
11 discovery responses against Defendants. After I left the voice messages, I sent  
12 Messrs. Stempler and Bragg, an email providing notice of the ex parte application. I  
13 have not received a response to my voice messages or email. Attached hereto as  
14 Exhibit 7 is a true and correct copy of my September 14, 2016.

15           10.     My office also gave verbal notice of the ex parte application to counsel  
16 for Defendant, Regreso Financial Services, Michael Goldsmith<sup>3</sup> on September 14,  
17 2014. Mr. Goldsmith does not oppose the ex parte application.

18           11.     I need additional time to provide Plaintiff's counsel with their portion  
19 of the Joint Stipulation and Declaration to Plaintiff's Motion to Compel because I  
20 have been working on a complicated motion for summary judgment in a Los  
21 \_\_\_\_\_

22 <sup>1</sup> Robert Stempler, Consumer Law Office of Robert Stempler APLC, PO Box 7145  
23 Oxnard, CA 93031-7145, 805-246-2300, Fax: 805-576-7800, Email:  
stemplerlaw@gmail.com

24 <sup>2</sup> O Randolph Bragg, Horwitz Horwitz and Associates, 25 East Washington Street  
25 Suite 900, Chicago, IL 60602, 312-372-8822, Fax: 312-372-1673, Email:  
rand@horwitzlaw.com

26 <sup>3</sup> Michael Lawrence Goldsmith, Goldsmith and Hull APC, 16933 Parthenia Street  
27 Suite 110, Northridge, CA 91343, 818-990-6600, Fax: 818-990-6140, Email:  
govdept1@goldsmithcalaw.com

1 Angeles Superior Court action, *Johannes v. Johannes*, case no. ED060172, which  
2 must be filed by this Friday, September 16, 2016. The summary judgment motion is  
3 in addition to other pressing work-related matters. In addition, as set forth in the  
4 declarations of Mr. Turner and our client, Mr. Goldsmith, they cannot devote the  
5 time necessary to review Defendants' portions of the Joint Stipulation and  
6 Declaration and provide their input before September 20, 2016. It is imperative that  
7 they are fully involved in the preparation of Defendants' portions of the Joint  
8 Stipulation and Declaration.

9  
10 I declare under penalty of perjury under the laws of California and the United  
11 States of America that the foregoing is true and correct and that this declaration was  
12 executed on September 15, 2016, at Los Angeles, California.

13  
14 /s/ Larissa G. Nefulda  
15 Larissa G. Nefulda  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27



**Nefulda, Larissa**

---

**From:** stemplerlaw@gmail.com on behalf of Robert Stempler <Robert@stopthecase.com>  
**Sent:** Tuesday, September 13, 2016 3:29 PM  
**To:** Nefulda, Larissa; Turner, Stephen; Rand Bragg; Robert Stempler  
**Subject:** Karcauskas v Goldsmith, Joint Stipulations and Exhibits for Motions to Compel Discovery  
**Attachments:** Exhibits to Attach to Joint Stipulation re Mtn Compel.pdf; Joint Stip as emailed Sept 13 re Goldsmith and Hull.pdf; Joint Stip as emailed Sept 13 re Mr Goldsmith.pdf

Larissa and Stephen:

See attached 3 PDFs:

1. Exhibits to be submitted with the Joint Stips
3. Joint Stip re Motion to Compel as to G&H,
3. Joint Stip re Motion to Compel as to Mr. Goldsmith.

Pursuant to our Joint Report, in particular Sections 2.1 and 2.2, please acknowledge receipt by email within 24 hours of transmission via email service.

Pursuant to Local Rule 37-2.2, within 7 days please email me with your declaration to be attached as Exhibit 5 (if you want) and your clients' responses to each of the items to be included in the Joint Stipulations, so that I can copy and paste it into the Joint Stipulations where appropriate.

Robert Stempler

Consumer Law Office of Robert Stempler  
A Professional Law Corporation

**Phone: (805) 246-2300**

**Exhibit 1**

Exh 2 Page 6

1 **Robert Stempler**, Cal. Bar No. 160299  
Email: Robert@StopCollectionHarassment.com  
2 CONSUMER LAW OFFICE OF  
ROBERT STEMLER, APC  
3 P.O. Box 7145  
Oxnard, CA 93031-7145  
4  
5 Telephone (805) 246-2300  
Fax: (805) 576-7800  
6 Counsel for Plaintiff

7  
8 UNITED STATES DISTRICT COURT  
9 CENTRAL DISTRICT OF CALIFORNIA  
10

11 POVILAS KARCAUSKAS,  
on behalf of himself and all  
12 others similarly situated,

13 Plaintiff,

14 vs.

15 REGRESO FINANCIAL  
SERVICES LLC;  
16 GOLDSMITH & HULL, APC;  
WILLIAM I. GOLDSMITH;  
17 and DOES 1 to 10;

18 Defendants.  
19

Case No. 2:15-cv-9225

CLASS ACTION

COMPLAINT FOR:

1. VIOLATING THE FAIR DEBT  
COLLECTION PRACTICES ACT;
2. VIOLATING THE CALIFORNIA  
ROSENTHAL FAIR DEBT  
COLLECTION PRACTICES ACT;

and DEMAND FOR JURY TRIAL

20 ///

21 ///

22 ///

Jurisdiction

1  
2 1. Jurisdiction of this court arises under the Fair Debt Collection Practices  
3 Act, 15 U.S.C. § 1692k(d) and 28 U.S.C. § 1331, and supplemental jurisdiction exists  
4 for the state law claims pursuant to 28 U.S.C. § 1367.

Parties

6  
7 2. The plaintiff, POVILAS KARCAUSKAS [“ Plaintiff” or “Mr.  
8 Karcauskas”] is a natural person and a resident within this district.

9 3. Defendant REGRESO FINANCIAL SERVICES LLC [“Regreso”] was,  
10 at all times relevant to this complaint, a California company, the principal business  
11 purpose of which is the collection of debts that were previously owed to another.

12 4. Defendant GOLDSMITH & HULL, APC [“G&H”] was, at all times  
13 relevant to this complaint, an corporation, the principal business purpose of which is  
14 the collection of debts owed to others.

15 5. Defendant WILLIAM I. GOLDSMITH [“Goldsmith”] was, at all times  
16 relevant to this complaint, an individual debt collector, whose principal business is  
17 the collection of debts owed to others.

18 6. The true names and capacities of the defendants sued herein as DOES  
19 1-10, inclusive, are unknown to plaintiff, at the present time.

Facts Supporting Each Claim

21  
22 7. Plaintiff Povilas Karcauskas received by U.S. Mail Defendants’  
23 collection letter dated September 9, 2015 sent in an attempt to collect a debt allegedly  
24 due Regreso, a copy of which is attached as Exhibit A.

25 8. Plaintiff received by U.S. Mail Defendants’ “Application for Renewal  
26 of Judgment” and “Memorandum of Costs After Judgment, Acknowledgment of  
27 Credit, and Declaration of Accrued Interest” in the lawsuit Regreso Financial  
28 Services v. Povilas Karcauskas which were file stamped by the Clerk of the Court for

1 the Superior Court of California on May 1, 2015. Copies of these Superior Court  
2 filings by defendants are attached as Exhibits B and C, respectively.

3 9. Plaintiff received by U.S. Mail the defendants' "Notice of Renewal of  
4 Judgment" in the lawsuit Regreso Financial Services v. Povilas Karcauskas which  
5 was file stamped by the Clerk of the Court for the Superior Court of California on  
6 May 1, 2015 and is attached as Exhibit D.

7 10. Several years ago Plaintiff had incurred a debt to Chase in a credit  
8 transaction used by Mr. Karcauskas to purchase goods or services for personal,  
9 family and household purposes.

10 11. Regreso acquired Plaintiff's alleged debt to Chase after it had gone into  
11 default.

12 12. Regreso retained the services of Defendants G&H and Goldsmith to  
13 collect Plaintiff's alleged Chase debt.

14 13. On April 2, 2015, the Secretary of State of the State of California  
15 suspended Regreso.

16 14. Regreso remained suspended by the Secretary of State from April 2,  
17 2015 until Regreso revived its legal status on July 15, 2015.

18 15. The California Court of Appeal, in *Timberline, Inc. v. Jaisinghani*, 64  
19 Cal.Rptr.2d 4, 7; 54 Cal.App.4th 1361, 1367 (Cal. Ct. App. 1997) held that a  
20 "corporation which was suspended . . . could not obtain renewal of judgment, even  
21 though corporation was in good standing when judgment was originally entered." On  
22 September 23, 2015, the Superior Court of California granted Plaintiff's motion to  
23 vacate the renewal of judgment.

24 16. Though Plaintiff's counsel advised Defendants that the Renewal of  
25 Judgment was defective and should be vacated, Defendants never withdrew their  
26 Renewal of Judgment or Memorandum of Costs, never requested dismissal of the  
27 collection case, and never filed a satisfaction of judgment in the collection case.

28

1           17. The California Court of Appeal, in *V & P Trading Co., Inc. v. United*  
2 *Charter, LLC*, 151 Cal.Rptr.3d 146, 149-150; 212 Cal.App.4th 126,132 (Cal. Ct. App.  
3 2012) stated:

4           Revenue and Taxation Code section 23301 provides that the  
5 corporate powers, rights, and privileges of a domestic taxpayer may be  
6 suspended if the corporation fails to pay certain taxes, penalties, or  
7 interest. “A corporation which has been suspended pursuant to section  
8 23301 is without capacity to prosecute a civil action while suspended.”  
9 (*Welco Construction, Inc. v. Modulux, Inc.* (1975) 47 Cal.App.3d 69,  
10 71, 120 Cal.Rptr. 572.) “Revenue and Taxations Code section 23305a  
11 provides for a certificate of revivor upon appropriate application by a  
12 corporation, and ‘Upon the issuance of such a certificate by the  
13 Franchise Tax Board the taxpayer therein named shall become reinstated  
14 but such reinstatement shall be without prejudice to any action, defense  
15 or right which has accrued by reason of the original suspension....’ ”  
16 (*Welco*, at p. 71, 120 Cal.Rptr. 572, italics omitted.)

17           18. In their collection letter, Exhibit A, Defendants represented that the case  
18 as being styled “Chase Manhattan Bank v. Povilas Karcauska,” though there is no  
19 such case filing. The collection case against Plaintiff is actually styled as “Regreso  
20 Financial Services LLC v. Povilas Karcauska.” (See Exhibits B, C and D.)

21           19. Plaintiff was confused by Exhibit A.

22           20. In their collection letter, Exhibit A, Defendants represented that “an  
23 employer must fully cooperate and follow the wage assignment as ordered by the  
24 Court.” There was no wage assignment order in the case.

25           21. Defendants’ communications, contained in Exhibits A, B, C and D, are  
26 each false, deceptive and misleading communications; a false and misleading means  
27 concerning debt collection; that nonpayment may result in the garnishment or  
28 attachment of the debtor’s wages; misstate the character, amount or legal status of an

1 alleged debt; are a false representation and deceptive means to collect a debt or obtain  
2 information about a consumer; and constitute an unfair and unconscionable means to  
3 collect or attempt to collect a debt.

4  
5 Class Action Allegations

6 22. This matter is brought as a class action defined as:

- 7 a. (i) all persons having an address within the state of California (ii)  
8 who were sent a communication from Defendants in the form of  
9 Exhibits A, B, C, or D (iii) to recover a debt incurred for personal,  
10 family, or household purposes (iv) due to Regreso (v) which was  
11 not returned undelivered by the United States Postal Service (vi)  
12 during the period of time from April 2, 2015 through July 14,  
13 2015; and  
14 b. (i) all persons having an address within the state of California (ii)  
15 who were sent a communication from defendants G&H or  
16 Goldsmith in the form of Exhibit A (iii) to recover a debt incurred  
17 for personal, family, or household purposes (iv) allegedly due to  
18 an entity which acquired the debt after default and which was not  
19 identified in the communication (v) which was not returned  
20 undelivered by the United States Postal Service (vi) during the  
21 period of time one year prior to the filing of the Complaint  
22 through the date of class certification.

23 23. The class is so numerous that joinder of all members is impractical.

24 24. There are questions of law and fact common to the class, which  
25 predominate over any questions affecting only individual class members. The  
26 principal issue is whether the defendants' communications violated the Fair Debt  
27 Collection Practices Act, 15 U.S.C. §§ 1692, *et seq.* ("FDCPA") and the Rosenthal  
28 Fair Debt Collection Practices Act, Cal. Civil Code § 1788.10, *et seq.* ("RFDCPA").



1           25. There are no individual questions, other than whether a class member  
2 was sent a communication in the form of Exhibits A, B, C, or D which can be  
3 determined by ministerial inspection of Defendants' records.

4           26. Plaintiff will fairly and adequately protect the interests of the class.

5           27. Plaintiff has retained counsel experienced in handling class claims and  
6 claims involving unlawful collection practices.

7           28. The questions of law and fact common to the class predominate over any  
8 issues involving only individual class members. The principal factual issue is  
9 whether the defendants' communication in the form of Exhibits A, B, C, or D was  
10 sent to the class member. The principal legal issue is whether Defendants'  
11 communications in the form of Exhibits A, B, C, or D violated the FDCPA and  
12 CA FDCPA.

13           29. Plaintiff's claims are typical of the claims of the class, which all arise  
14 from the same operative acts and are based on the same legal theories.

15           30. A class action is a superior method for the fair and efficient adjudication  
16 of this controversy. Class-wide damages are essential to induce Defendant to comply  
17 with federal and state law. The interest of class members in individually controlling  
18 the prosecution of separate claims against the defendants are small because the  
19 maximum statutory damages in an individual FDCPA action is \$1,000.00.  
20 Management of these class claims are likely to present significantly fewer difficulties  
21 than those presented in many class actions, e.g., for securities fraud.

22           31. The nature of notice will be U.S. Mail to the proposed class members.

23  
24 ///

25 ///

26 ///

27

28

CAUSES OF ACTION

COUNT 1

Against all defendants

Violating the Fair Debt Collection Practices Act

32. Paragraphs under the headings Parties, Facts Supporting Each Claim, and Class Allegations are incorporated by reference.

33. Plaintiff is a “consumer,” as defined at 15 U.S.C. § 1692a(3).

34. Defendants are each a “debt collector,” as defined at 15 U.S.C. § 1692a(6).

35. Defendants violated the FDCPA in the following ways:

- a. Violation of § 1692e by using a false, deceptive or misleading representation or means in connection with the collection of a debt.
- b. Violation of § 1692e(2)(A) by making the false representation of the character, amount or legal status of a debt.
- c. Violation of § 1692e(5) by making a threat to take any action that cannot legally be taken.
- d. Violation of § 1692e(10) by using a false representation or deceptive means to collect or attempt to collect any debt or to obtain any information concerning a consumer.
- e. Violation of § 1692f by the collection of any amount (including interest) that are not permitted by law.

36. As a result of the defendants’ violations of the FDCPA, Plaintiff and the class are entitled to an award of maximum statutory damages, costs and reasonable attorney’s fees.

///

///

///

COUNT 2

Against all Defendants except William I. Goldsmith

Violating the California Rosenthal Fair Debt Collection Practices Act

37. Paragraphs under the headings Parties, Facts Supporting Each Claim, and Class Allegations are incorporated by reference.

38. Plaintiff incorporates the violations of the FDCPA, as alleged above, pursuant to Cal. Civil Code § 1788.17.

WHEREFORE, plaintiff prays for judgment as follows:

1. Certify this matter to proceed as a class action;
2. Pursuant to 15 U.S.C. § 1692k(a), an award of the maximum statutory damages, costs and reasonable attorney's fees;
3. Pursuant to Cal. Civil Code §§ 1788.17 and 1788.32, an award of the maximum statutory damages, costs and reasonable attorneys' fees;
4. And for such other and further relief as the court deems proper.

DEMAND FOR JURY TRIAL

Plaintiff demands trial by jury in this action.

Dated: November 30, 2015

CONSUMER LAW OFFICE OF  
ROBERT STEMPLER, APC

/s/ Robert Stempler  
By: Robert Stempler,  
Counsel for Plaintiff

TABLE OF EXHIBITS

Exhibit

- A. Collection letter dated September 9, 2015
- B. Application for Renewal of Judgment
- C. Memorandum of Costs After Judgment, Acknowledgment of Credit, and Declaration of Accrued Interest
- D. Notice of Renewal of Judgment



**LAW OFFICES**  
**GOLDSMITH & HULL**  
A PROFESSIONAL CORPORATION

16933 PARTHENIA STREET SUITE 110  
NORTHRIDGE, CA 91343  
(818) 990-6600  
TELECOPIER (818) 990-6140  
Info@GoldsmithCaLaw.com

September 9, 2015

Povilas Karcauska  
11752 Mariposa Bay Ln.  
Porter Ranch CA 91326

Re: Chase Manhattan Bank vs. Povilas Karcauska  
Our File Number: 04004569  
Court Case Number: 181490  
**Judgment Amount: \$23,287.41** plus interest and cost after judgment


Dear Mr. Karcauska:

**A Civil Judgment has been obtained.** If you are employed, your employer must comply with a wage garnishment order, if it is levied upon them. **Pursuant to California Code of Civil Procedure §706.020-706.151, an employer must fully cooperate and follow the wage assignment as ordered by the Court.**

Please contact this office **immediately** to further discuss your current options of resolving the balance due, or we will proceed in enforcing the judgment obtained.

Sincerely,

Goldsmith & Hull  
A Professional Corporation

  
By: Christian Alarcon  
Legal Assistant

L4AR

\*This communication is an attempt to collect a debt by a debt collector and any information obtained will be used for that purpose.\*

Exh 2 Page 17





EJ-190

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, address, and State Bar number):  
 After recording, return to: William I. Goldsmith SBN  
 Goldsmith & Hull APC 04004569  
 16933 Parthenia Street Ste 110  
 Northridge, CA 91343  
 Northridge, CA 91343  
 TEL NO.: 818-990-6660 FAX NO. (optional): 818-990-614  
 E-MAIL ADDRESS (Optional): SUPERIOR COURT OF CALIF  
☒ ATTORNEY FOR ☒ JUDGMENT CREDITOR ☐ ASSIGNEE OF RECORD

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SONOMA  
 STREET ADDRESS: 600 Administration Drive Rm  
 MAILING ADDRESS: SAME  
 CITY AND ZIP CODE: Santa Rosa, CA 95403  
 BRANCH NAME: SONOMA DISTRICT

FOR RECORDER'S USE ONLY

PLAINTIFF: REGRESO FINANCIAL SERVICES  
 DEFENDANT: POVILAS KARCAUSKA

CASE NUMBER:  
 181490

APPLICATION FOR AND RENEWAL OF JUDGMENT

FOR COURT USE ONLY

- ☒ Judgment creditor  
☐ Assignee of record

applies for renewal of the judgment as follows:

1. Applicant (name and address): REGRESO FINANCIAL SERVICES  
 c/o Goldsmith & Hull APC  
 16933 Parthenia Street Ste 110  
 Northridge, CA 91343
2. Judgment debtor (name and last known address):  
 POVILAS KARCAUSKA  
 11752 Mariposa Bay Ln.  
 Porter Ranch, CA 91326
3. Original judgment
  - a. Case number (specify) 181490
  - b. Entered on (date): 6-2-2005
  - c. Recorded:
    - (1) Date: 9-19-2005
    - (2) County: Sonoma County
    - (3) Instrument No.: 2005138470
4. ☐ Judgment previously renewed (specify each case number and date):


5. ☒ Renewal of money judgment

a. Total judgment	\$	11,252.76
b. Costs after judgment	\$	0.00
c. Subtotal (add a and b)	\$	11,252.76
d. Credits after judgment	\$	0.00
e. Subtotal (subtract d from c)	\$	11,252.76
f. Interest after judgment	\$	11,150.85
g. Fee for filing renewal application	\$	30.00
h. Total renewed judgment (add e, f, and g)	\$	22,433.61

- i. ☐ The amounts called for in items a-h are different for each debtor.  
 These amounts are stated for each debtor on Attachment 5.

**FILED**

MAY - 1 2015

Clerk of the Superior Court of California  
 County of Sonoma  
 By  Deputy Clerk

SHORT TITLE: REGRESO vs POVILAS KARCAUSKA	CASE NUMBER: 181490
---	------------------------

6. ☐ Renewal of judgment for ☐ possession.  
☐ sale.

a. ☐ If judgment was not previously renewed, terms of judgment as entered:

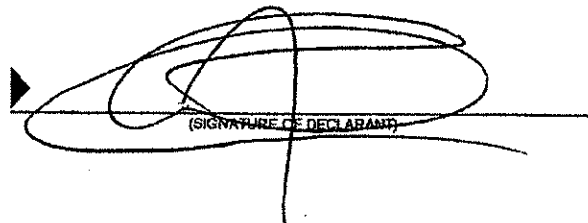
b. ☐ If judgment was previously renewed, terms of judgment as last renewed:

c. ☐ Terms of judgment remaining unsatisfied:

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: April 28, 2015

William I. Goldsmith  
(TYPE OR PRINT NAME)

  
(SIGNATURE OF DECLARANT)



MC-012

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): William I. Goldsmith SBN 82183 Goldsmith & Hull APC 04004569 16933 Parthenia Street Ste 110 Northridge, CA 91343 Northridge, CA 91343 TELEPHONE NO.: 818-990-6600 FAX NO.: 818-990-6140 ATTORNEY FOR (Name): PLAINTIFF	FOR COURT USE ONLY  <div style="font-size: 2em; font-weight: bold; margin: 10px 0;">FILED</div> <div style="font-size: 1.2em; font-weight: bold; margin: 5px 0;">MAY - 1 2015</div> <div style="font-size: 0.8em; margin: 5px 0;">           Clerk of the Superior Court of California            County of Sonoma            By:  Deputy Clerk         </div>
NAME OF COURT: SUPERIOR COURT OF CALIFORNIA STREET ADDRESS: 600 Administration Drive Rm 107-J MAILING ADDRESS: SAME CITY AND ZIP CODE: Santa Rosa, CA 95403 BRANCH NAME: SONOMA DISTRICT	CASE NUMBER: 181490
PLAINTIFF: REGRESO FINANCIAL SERVICES  DEFENDANT: POVILAS KARCAUSKA	
<b>MEMORANDUM OF COSTS AFTER JUDGMENT, ACKNOWLEDGMENT OF CREDIT, AND DECLARATION OF ACCRUED INTEREST</b>	

1. I claim the following costs after judgment incurred within the last two years (Indicate if there are multiple items in any category):

	Dates incurred	Amount
a Preparing and issuing abstract of judgment		\$ 0.00
b Recording and indexing abstract of judgment		\$ 0.00
c Filing notice of judgment lien on personal property		\$ 0.00
d Issuing writ of execution, to extent not satisfied by Code Civ. Proc., § 685.050 (specify county):		\$ 0.00
e Levying officers fees, to extent not satisfied by Code Civ. Proc., § 685.050 or wage garnishment		\$ 0.00
f Approved fee on application for order for appearance of judgment debtor, or other approved costs under Code Civ. Proc., § 708.110 et seq.		\$ 0.00
g Attorney fees, if allowed by Code Civ. Proc., § 685.040		\$ 0.00
h Other: (Statute authorizing cost):		\$ 0.00
i Total of claimed costs for current memorandum of costs (add items a-h)		\$ 0.00

2. All previously allowed postjudgment costs: \$ 0.00

3. Total of all postjudgment costs (add items 1 and 2): TOTAL \$ 0.00

4. Acknowledgment of Credit. I acknowledge total credit to date (including returns on levy process and direct payments) in the amount of: \$ 0.00

5. Declaration of Accrued Interest. Interest on the judgment accruing at the legal rate from the date of entry on balances due after partial satisfactions and other credits in the amount of: \$ 11,150.85

6. I am the ☐ judgment creditor ☐ agent for the judgment creditor ☒ attorney for the judgment creditor.

I have knowledge of the facts concerning the costs claimed above. To the best of my knowledge and belief, the costs claimed are correct, reasonable, and necessary, and have not been satisfied.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: April 28, 2015

William I. Goldsmith  
 (TYPE OR PRINT NAME)

(SIGNATURE OF DECLARANT)

**NOTICE TO THE JUDGMENT DEBTOR**

If this memorandum of costs is filed at the same time as an application for a writ of execution, any statutory costs, not exceeding \$100 in aggregate and not already allowed by the court, may be included in the writ of execution. The fees sought under this memorandum may be disallowed by the court upon a motion to tax filed by the debtor, notwithstanding the fees having been included in the writ of execution. (Code Civ. Proc., § 685.070(e).) A motion to tax costs claimed in this memorandum must be filed within 10 days after service of the memorandum. (Code Civ. Proc., § 685.070(c).)

(Proof of service on reverse)

MC-012

SHORT TITLE: REGRESO vs POVILAS KARCAUSKA	CASE NUMBER: 181490
---	------------------------

**PROOF OF SERVICE**

☒ Mail ☐ Personal Service

1. At the time of service I was at least 18 years of age and not a party to this legal action.
2. My residence or business address is (specify): 16933 PARTHENIA STREET Ste 110  
NORTHRIDGE, CA 91343
3. I mailed or personally delivered a copy of the *Memorandum of Costs After Judgment, Acknowledgment of Credit, and Declaration of Accrued Interest* as follows (complete either a or b):
  - a. ☒ Mail. I am a resident of or employed in the county where the mailing occurred.
    - (1) I enclosed a copy in an envelope AND
      - (a) ☒ deposited the sealed envelope with the United States Postal Service with the postage fully prepaid.
      - (b) ☒ placed the envelope for collection and mailing on the date and at the place shown in items below following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service in a sealed envelope with postage fully prepaid.
    - (2) The envelope was addressed and mailed as follows:
      - (a) Name of person served: POVILAS KARCAUSKA
      - (b) Address on envelope: 11752 Mariposa Bay Ln.  
Porter Ranch, CA 91326
    - (c) Date of mailing: April 28, 2015
    - (d) Place of mailing (city and state): NORTHRIDGE, CA 91343
  - b. ☐ Personal delivery. I personally delivered a copy as follows:
    - (1) Name of person served:
    - (2) Address where delivered:
    - (3) Date delivered:
    - (4) Time delivered:

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: April 28, 2015

Jennifer Meyers  
(TYPE OR PRINT NAME)

(SIGNATURE OR DECLARANT)

Judgment Amount	Interest Rate	Judgment Date	End Date
<input type="text" value="\$11,252.76"/>	<input type="text" value="10.0000"/> %	<input type="text" value="06/02/2005"/> <a href="#">Click here to display the calendar.</a>	<input type="text" value="04/28/2015"/> End Date

#### Results

Judgment Amount	<input type="text" value="\$11,252.76"/>	Daily Interest	<input type="text" value="\$3.0829"/>	Days	<input type="text" value="3617"/>
Principal Reduction	<input type="text" value="\$0.00"/>	Interest Accrued	<input type="text" value="\$0.00"/>		
Principal Balance	<input type="text" value="\$11,252.76"/>	Interest to Date	<input type="text" value="\$11,150.85"/>	GRAND TOTAL	
Costs After Judgment	<input type="text" value="\$0.00"/>	Total Interest	<input type="text" value="\$11,150.85"/>	<input type="text" value="\$22,403.61"/>	





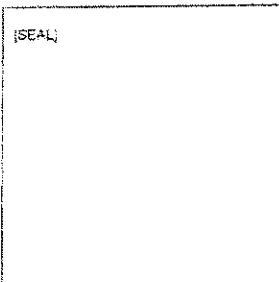
EJ-195

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name and Address)		TELEPHONE NO.:	FOR COURT USE ONLY  <b>ENDORSED FILED</b>  <b>MAY - 1 2015</b>  SUPERIOR COURT OF CALIFORNIA COUNTY OF SONOMA
William I. Goldsmith SBN 82183 Goldsmith & Hull APC 04004569 16933 Parthenia Street Ste 110 Northridge, CA 91343 Northridge, CA 91343		818-990-6600	
ATTORNEY FOR (Name): PLAINTIFF			
NAME OF COURT: SUPERIOR COURT OF CALIFORNIA STREET ADDRESS: 600 Administration Drive Rm 107-J MAILING ADDRESS: SAME CITY AND ZIP CODE: Santa Rosa, CA 95403 BRANCH NAME: SONOMA DISTRICT			
PLAINTIFF: REGRESO FINANCIAL SERVICES			
DEFENDANT: POVILAS KARCAUSKA			
NOTICE OF RENEWAL OF JUDGMENT			CASE NUMBER: 181490

TO JUDGMENT DEBTOR (name): POVILAS KARCAUSKA

1. This renewal extends the period of enforceability of the judgment until 10 years from the date the application for renewal was filed.
2. If you object to this renewal, you may make a motion to vacate or modify the renewal with this court.
3. You must make this motion within 30 days after service of this notice on you.
4. A copy of the Application for and Renewal of Judgment is attached (Cal. Rules of Court, rule 3.1900).

Date: MAY - 1 2015 JOSE O. GUILLEN Clerk, by Lupe Beas, Deputy



See CCP 683.160 for information on method of service

Page 1 of 1

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

**NOTICE OF ASSIGNMENT TO UNITED STATES JUDGES**

This case has been assigned to:

District Judge **Fernando M. Olguin**  
Magistrate Judge **Rozella A. Oliver**

The case number on all documents filed with the Court should read as follows:

**2:15-cv-09225-FMO-RAOx**

Most district judges in the Central District of California refer all discovery-related motions to the assigned magistrate judge pursuant to General Order No. 05-07. If this case has been assigned to either Judge Manuel L. Real or Judge Robert J. Timlin, discovery-related motions should generally be noticed for hearing before the assigned district judge. Otherwise, discovery-related motions should generally be noticed for hearing before the assigned magistrate judge. Please refer to the assigned judges' Procedures and Schedules, available on the Court's website at [www.cacd.uscourts.gov/judges-requirements](http://www.cacd.uscourts.gov/judges-requirements), for additional information.

Clerk, U.S. District Court

December 1, 2015  
Date

By /s/ Carmen Reyes  
Deputy Clerk

---

---

**ATTENTION**

*The party that filed the case-initiating document in this case (for example, the complaint or the notice of removal) must serve a copy of this Notice on all parties served with the case-initiating document. In addition, if the case-initiating document in this case was electronically filed, the party that filed it must, upon receipt of this Notice, promptly deliver mandatory chambers copies of all previously filed documents to the newly assigned-district judge. See L.R. 5-4.5. A copy of this Notice should be attached to the first page of the mandatory chambers copy of the case-initiating document.*

**Exh 2 Page 27**

UNITED STATES DISTRICT COURT

for the

Central District of California

POVILAS KARCAUSKAS,  
on behalf of himself and all  
others similarly situated,

\_\_\_\_\_  
*Plaintiff(s)*

v.

REGRESO FINANCIAL SERVICES LLC;  
GOLDSMITH & HULL, APC;  
WILLIAM I. GOLDSMITH; and DOES 1 to 10

\_\_\_\_\_  
*Defendant(s)*

Civil Action No. 2:15-cv-09225 FMO-RAOx

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Robert Stempler  
Consumer Law Office of Robert Stempler, APC  
P.O. Box 7145  
Oxnard, CA 93031-7145

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

Date: 12/1/2015

CLERK OF COURT

*Carrie Reyes*

\_\_\_\_\_  
Signature of Clerk or Deputy Clerk



Civil Action No. 2:15-cv-09225

**PROOF OF SERVICE**

*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* \_\_\_\_\_  
was received by me on *(date)* \_\_\_\_\_.

☐ I personally served the summons on the individual at *(place)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* \_\_\_\_\_  
\_\_\_\_\_, a person of suitable age and discretion who resides there,  
on *(date)* \_\_\_\_\_, and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* \_\_\_\_\_, who is  
designated by law to accept service of process on behalf of *(name of organization)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_; or

☐ I returned the summons unexecuted because \_\_\_\_\_; or

☐ Other *(specify)*:

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ 0.00.

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc:

<b>I. (a) PLAINTIFFS</b> ( Check box if you are representing yourself <input type="checkbox"/> ) POVILAS KARCAUSKAS	<b>DEFENDANTS</b> ( Check box if you are representing yourself <input type="checkbox"/> ) REGRESO FINANCIAL SERVICES LLC; GOLDSMITH & HULL, APC; WILLIAM I. GOLDSMITH; and DOES 1 to 10
(b) County of Residence of First Listed Plaintiff <u>Los Angeles</u> (EXCEPT IN U.S. PLAINTIFF CASES)	County of Residence of First Listed Defendant _____ (IN U.S. PLAINTIFF CASES ONLY)
(c) Attorneys (Firm Name, Address and Telephone Number) If you are representing yourself, provide the same information. Robert Stempler, Telephone (805) 246-2300 Consumer Law Office of Robert Stempler, APC P.O. Box 7145; Oxnard, CA 93031	Attorneys (Firm Name, Address and Telephone Number) If you are representing yourself, provide the same information.

<b>II. BASIS OF JURISDICTION</b> (Place an X in one box only.) <div style="display: flex; justify-content: space-between;"> <div style="width:48%;"> <input type="checkbox"/> 1. U.S. Government Plaintiff                         </div> <div style="width:48%;"> <input checked="" type="checkbox"/> 3. Federal Question (U.S. Government Not a Party)                         </div> </div> <div style="display: flex; justify-content: space-between; margin-top: 10px;"> <div style="width:48%;"> <input type="checkbox"/> 2. U.S. Government Defendant                         </div> <div style="width:48%;"> <input type="checkbox"/> 4. Diversity (Indicate Citizenship of Parties in Item III)                         </div> </div>	<b>III. CITIZENSHIP OF PRINCIPAL PARTIES</b> -For Diversity Cases Only (Place an X in one box for plaintiff and one for defendant) <table style="width:100%; border: none;"> <tr> <td style="width:33%;"></td> <td style="width:10%; text-align: center;"><b>PTF</b></td> <td style="width:10%; text-align: center;"><b>DEF</b></td> <td style="width:33%;"></td> <td style="width:10%; text-align: center;"><b>PTF</b></td> <td style="width:10%; text-align: center;"><b>DEF</b></td> </tr> <tr> <td>Citizen of This State</td> <td style="text-align: center;"><input type="checkbox"/> 1</td> <td style="text-align: center;"><input type="checkbox"/> 1</td> <td>Incorporated or Principal Place of Business in this State</td> <td style="text-align: center;"><input type="checkbox"/> 4</td> <td style="text-align: center;"><input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td style="text-align: center;"><input type="checkbox"/> 2</td> <td style="text-align: center;"><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business in Another State</td> <td style="text-align: center;"><input type="checkbox"/> 5</td> <td style="text-align: center;"><input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td style="text-align: center;"><input type="checkbox"/> 3</td> <td style="text-align: center;"><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td style="text-align: center;"><input type="checkbox"/> 6</td> <td style="text-align: center;"><input type="checkbox"/> 6</td> </tr> </table>		<b>PTF</b>	<b>DEF</b>		<b>PTF</b>	<b>DEF</b>	Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business in this State	<input type="checkbox"/> 4	<input type="checkbox"/> 4	Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6
	<b>PTF</b>	<b>DEF</b>		<b>PTF</b>	<b>DEF</b>																				
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business in this State	<input type="checkbox"/> 4	<input type="checkbox"/> 4																				
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5																				
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6																				

**IV. ORIGIN** (Place an X in one box only.)

<input checked="" type="checkbox"/> 1. Original Proceeding	<input type="checkbox"/> 2. Removed from State Court	<input type="checkbox"/> 3. Remanded from Appellate Court	<input type="checkbox"/> 4. Reinstated or Reopened	<input type="checkbox"/> 5. Transferred from Another District (Specify) _____	<input type="checkbox"/> 6. Multi-District Litigation
--	--	---	--	---	---

**V. REQUESTED IN COMPLAINT: JURY DEMAND:** ☒ Yes ☐ No (Check "Yes" only if demanded in complaint.)

**CLASS ACTION** under F.R.Cv.P. 23: ☒ Yes ☐ No **MONEY DEMANDED IN COMPLAINT:** \$ To be determined.

**VI. CAUSE OF ACTION** (Cite the U.S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.)  
 Federal Fair Debt Collection Practices Act (-FDCPAŽ), 15 U.S.C. § 1692k(d)

**VII. NATURE OF SUIT** (Place an X in one box only).

OTHER STATUTES	CONTRACT	REAL PROPERTY CONT.	IMMIGRATION	PRISONER PETITIONS	PROPERTY RIGHTS
<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/Etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer influenced & Corrupt Org. <input checked="" type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Info. Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Admin. Procedures Act/Review of Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes	<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Vet.) <input type="checkbox"/> 153 Recovery of Overpayment of Vet. Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise <div style="background-color: #f2f2f2; text-align: center; font-weight: bold; margin-top: 5px;">REAL PROPERTY</div> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property <div style="background-color: #f2f2f2; text-align: center; font-weight: bold; margin-top: 5px;">TORTS</div> <div style="background-color: #f2f2f2; text-align: center; font-weight: bold; margin-top: 5px;">PERSONAL INJURY</div> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Fed. Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury-Med Malpractice <input type="checkbox"/> 365 Personal Injury-Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions <div style="background-color: #f2f2f2; text-align: center; font-weight: bold; margin-top: 5px;">TORTS</div> <div style="background-color: #f2f2f2; text-align: center; font-weight: bold; margin-top: 5px;">PERSONAL PROPERTY</div> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability <div style="background-color: #f2f2f2; text-align: center; font-weight: bold; margin-top: 5px;">BANKRUPTCY</div> <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <div style="background-color: #f2f2f2; text-align: center; font-weight: bold; margin-top: 5px;">CIVIL RIGHTS</div> <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 American with Disabilities-Employment <input type="checkbox"/> 446 American with Disabilities-Other <input type="checkbox"/> 448 Education	<div style="background-color: #f2f2f2; text-align: center; font-weight: bold; margin-bottom: 5px;">Habeas Corpus:</div> <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <div style="background-color: #f2f2f2; text-align: center; font-weight: bold; margin-top: 5px;">Other:</div> <input type="checkbox"/> 540 Mandamus/Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee Conditions of Confinement <div style="background-color: #f2f2f2; text-align: center; font-weight: bold; margin-top: 5px;">FORFEITURE/PENALTY</div> <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other <div style="background-color: #f2f2f2; text-align: center; font-weight: bold; margin-top: 5px;">LABOR</div> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Ret. Inc. Security Act	<input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <div style="background-color: #f2f2f2; text-align: center; font-weight: bold; margin-top: 5px;">SOCIAL SECURITY</div> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405 (g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405 (g)) <div style="background-color: #f2f2f2; text-align: center; font-weight: bold; margin-top: 5px;">FEDERAL TAX SUITS</div> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS-Third Party 26 USC 7609



**VIII. VENUE:** Your answers to the questions below will determine the division of the Court to which this case will be initially assigned. This initial assignment is subject to change, in accordance with the Court's General Orders, upon review by the Court of your Complaint or Notice of Removal.

<b>QUESTION A: Was this case removed from state court?</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No  If "no," skip to Question B. If "yes," check the box to the right that applies, enter the corresponding division in response to Question E, below, and continue from there.	<b>STATE CASE WAS PENDING IN THE COUNTY OF:</b> <input type="checkbox"/> Los Angeles, Ventura, Santa Barbara, or San Luis Obispo <input type="checkbox"/> Orange <input type="checkbox"/> Riverside or San Bernardino	<b>INITIAL DIVISION IN CACD IS:</b> Western Southern Eastern
--	--	---

<b>QUESTION B: Is the United States, or one of its agencies or employees, a PLAINTIFF in this action?</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No  If "no," skip to Question C. If "yes," answer Question B.1, at right.	<b>B.1.</b> Do 50% or more of the defendants who reside in the district reside in Orange Co?  <i>check one of the boxes to the right</i> →	YES. Your case will initially be assigned to the Southern Division. <input type="checkbox"/> Enter "Southern" in response to Question E, below, and continue from there.  <input type="checkbox"/> NO. Continue to Question B.2.
If "no," skip to Question C. If "yes," answer Question B.1, at right.	<b>B.2.</b> Do 50% or more of the defendants who reside in the district reside in Riverside and/or San Bernardino Counties? (Consider the two counties together.)  <i>check one of the boxes to the right</i> →	YES. Your case will initially be assigned to the Eastern Division. <input type="checkbox"/> Enter "Eastern" in response to Question E, below, and continue from there.  NO. Your case will initially be assigned to the Western Division. <input type="checkbox"/> Enter "Western" in response to Question E, below, and continue from there.

<b>QUESTION C: Is the United States, or one of its agencies or employees, a DEFENDANT in this action?</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No  If "no," skip to Question D. If "yes," answer Question C.1, at right.	<b>C.1.</b> Do 50% or more of the plaintiffs who reside in the district reside in Orange Co?  <i>check one of the boxes to the right</i> →	YES. Your case will initially be assigned to the Southern Division. <input type="checkbox"/> Enter "Southern" in response to Question E, below, and continue from there.  <input type="checkbox"/> NO. Continue to Question C.2.
If "no," skip to Question D. If "yes," answer Question C.1, at right.	<b>C.2.</b> Do 50% or more of the plaintiffs who reside in the district reside in Riverside and/or San Bernardino Counties? (Consider the two counties together.)  <i>check one of the boxes to the right</i> →	YES. Your case will initially be assigned to the Eastern Division. <input type="checkbox"/> Enter "Eastern" in response to Question E, below, and continue from there.  NO. Your case will initially be assigned to the Western Division. <input type="checkbox"/> Enter "Western" in response to Question E, below, and continue from there.

<b>QUESTION D: Location of plaintiffs and defendants?</b>	A. Orange County	B. Riverside or San Bernardino County	C. Los Angeles, Ventura, Santa Barbara, or San Luis Obispo County
Indicate the location(s) in which 50% or more of <i>plaintiffs who reside in this district</i> reside. (Check up to two boxes, or leave blank if none of these choices apply.)	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Indicate the location(s) in which 50% or more of <i>defendants who reside in this district</i> reside. (Check up to two boxes, or leave blank if none of these choices apply.)	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

<b>D.1. Is there at least one answer in Column A?</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No  If "yes," your case will initially be assigned to the SOUTHERN DIVISION.  Enter "Southern" in response to Question E, below, and continue from there.  If "no," go to question D2 to the right. →	<b>D.2. Is there at least one answer in Column B?</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No  If "yes," your case will initially be assigned to the EASTERN DIVISION.  Enter "Eastern" in response to Question E, below.  If "no," your case will be assigned to the WESTERN DIVISION.  Enter "Western" in response to Question E, below. ↓
---	---

<b>QUESTION E: Initial Division?</b>	<b>INITIAL DIVISION IN CACD</b>
Enter the initial division determined by Question A, B, C, or D above: →	WESTERN

<b>QUESTION F: Northern Counties?</b>	
Do 50% or more of plaintiffs or defendants in this district reside in Ventura, Santa Barbara, or San Luis Obispo counties?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

Exh 2 Page 31

**IX(a). IDENTICAL CASES:** Has this action been previously filed in this court? ☒ NO ☐ YES

If yes, list case number(s): \_\_\_\_\_

**IX(b). RELATED CASES:** Is this case related (as defined below) to any civil or criminal case(s) previously filed in this court? ☒ NO ☐ YES

If yes, list case number(s): \_\_\_\_\_

**Civil cases** are related when they (check all that apply):

- ☐ A. Arise from the same or a closely related transaction, happening, or event;
- ☐ B. Call for determination of the same or substantially related or similar questions of law and fact; or
- ☐ C. For other reasons would entail substantial duplication of labor if heard by different judges.

Note: That cases may involve the same patent, trademark, or copyright is not, in itself, sufficient to deem cases related.

**A civil forfeiture case and a criminal case** are related when they (check all that apply):

- ☐ A. Arise from the same or a closely related transaction, happening, or event;
- ☐ B. Call for determination of the same or substantially related or similar questions of law and fact; or
- ☐ C. Involve one or more defendants from the criminal case in common and would entail substantial duplication of labor if heard by different judges.

**X. SIGNATURE OF ATTORNEY (OR SELF-REPRESENTED LITIGANT):** /s/ Robert Stempler **DATE:** November 30, 2015

**Notice to Counsel/Parties:** The submission of this Civil Cover Sheet is required by Local Rule 3-1. This Form CV-71 and the information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. For more detailed instructions, see separate instruction sheet (CV-071A).

Key to Statistical codes relating to Social Security Cases:

Nature of Suit Code	Abbreviation	Substantive Statement of Cause of Action
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405 (g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405 (g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405 (g))

Exh 2 Page 32



**Exhibit 2**

Exh 2 Page 33

1 LEWIS BRISBOIS BISGAARD & SMITH LLP  
STEPHEN H. TURNER, SB# 89627

2 E-Mail: [Stephen.Turner@lewisbrisbois.com](mailto:Stephen.Turner@lewisbrisbois.com)

LARISSA G. NEFULDA, SB# 201903

3 E-Mail: [Larissa.Nefulda@lewisbrisbois.com](mailto:Larissa.Nefulda@lewisbrisbois.com)

633 West 5<sup>th</sup> Street, Ste. 4000

4 Los Angeles, CA 90071

Telephone: 213.250.1800

5 Facsimile: 213.250.7900

6 Attorneys for Defendants

GOLDSMITH & HULL, APC and

7 WILLIAM I. GOLDSMITH

8 UNITED STATES DISTRICT COURT  
9 CENTRAL DISTRICT OF CALIFORNIA  
10

11 POVILAS KARCAUSKAS, on behalf  
12 of himself and all others similarly  
situated,

13 Plaintiff,

14 vs.

15 REGRESO FINANCIAL SERVICES  
16 LLC; GOLDSMITH & HULL, APC;  
17 WILLIAM I. GOLDSMITH; and  
DOES 1 to 10;

18 Defendants.  
19

CASE NO. 2:15-cv-09225-FMO-RAOx

**DEFENDANTS GOLDSMITH &  
HULL, APC AND WILLIAM I.  
GOLDSMITH'S SECOND  
AMENDED ANSWER TO  
COMPLAINT**

Trial Date: March 21, 2017

[Hon. Fernando M. Olguin]

20  
21 Defendants GOLDSMITH & HULL, APC and WILLIAM I. GOLDSMITH  
22 (collectively "Defendants"), by and through their undersigned counsel, hereby file  
23 their Second Amended Answer and Affirmative Defenses to the Plaintiff's  
24 Complaint filed by Plaintiff, POVILAS KARCAUSKAS ("Plaintiff").

25 ///

26 ///

27 ///

28 ///

4815-2161-3103.1

1

Exh 2 Page 34

DEFENDANTS GOLDSMITH & HULL, APC AND WILLIAM I. GOLDSMITH'S SECOND AMENDED ANSWER  
TO COMPLAINT

**Jurisdiction**

1  
2 1. Defendants admit the allegations contained therein.

**Parties**

3  
4 2. Defendants admit the allegations contained therein.

5 3. Defendants admit the allegations contained therein.

6 4. Defendants admit the allegations contained therein.

7 5. Defendants admit the allegations contained therein.

8 6. Defendants admit the allegations contained therein.

**Facts Supporting Each Claim**

9  
10 7. Defendants are without knowledge or information sufficient to form a  
11 belief as to the truth of the remaining allegations contained in paragraph 7 of the  
12 Complaint and, therefore, deny the allegations.

13 8. Defendants are without knowledge or information sufficient to form a  
14 belief as to the truth of the remaining allegations contained in paragraph 8 of the  
15 Complaint and, therefore, deny the allegations.

16 9. Defendants are without knowledge or information sufficient to form a  
17 belief as to the truth of the remaining allegations contained in paragraph 9 of the  
18 Complaint and, therefore, deny the allegations.

19 10. Defendants admit the allegations contained therein.

20 11. Defendants admit the allegations contained therein.

21 12. Defendants admit the allegations contained therein.

22 13. Defendants admit the allegations contained therein.

23 14. Defendants admit the allegations contained therein.

24 15. Defendants admit the allegations contained therein.

25 16. Defendants admit the allegations contained therein.

26 17. Defendants admit the allegations contained therein.

27 18. Defendants admit the allegations contained therein.

28 19. Defendants are without knowledge or information sufficient to form a

1 belief as to the truth of the remaining allegations contained in paragraph 19 of the  
2 Complaint and, therefore, deny the allegations.

3 20. Defendants admit the allegations contained therein.

4 21. Defendants deny the allegations contained therein.

5 **Class Action Allegations**

6 22. Defendants deny the allegations contained therein.

7 23. Defendants deny the allegations contained therein.

8 24. Defendants deny the allegations contained therein.

9 25. Defendants deny the allegations contained therein.

10 26. Defendants deny the allegations contained therein.

11 27. Defendants deny the allegations contained therein.

12 28. Defendants deny the allegations contained therein.

13 29. Defendants deny the allegations contained therein.

14 30. Defendants deny the allegations contained therein.

15 31. Defendants deny the allegations contained therein.

16 **COUNT 1**

17 32. Defendants respond to the allegations contained in the previous  
18 paragraphs of the Complaint as set forth above.

19 33. Defendants admit the allegations contained therein.

20 34. Defendants admit the allegations contained therein.

21 35. Defendants deny the allegations contained in paragraph 35, subsections  
22 a through 5 of the Complaint.

23 36. Defendants deny the allegations contained therein.

24 **COUNT 2**

25 37. Defendants respond to the allegations contained in the previous  
26 paragraphs of the Complaint as set forth above.

27 38. Defendants deny the allegations contained therein.

28 ///

4815-2161-3103.1

**AFFIRMATIVE DEFENSE**

**(Bona Fide Error Defense)**

Defendants allege that Plaintiff's claims are barred on the basis that any statutory violation was the unintentional result of a bona fide error. Defendants maintain reasonable procedures to prevent the errors that occurred in this case.

Defendants allege that they unintentionally and mistakenly misrepresented the status and involvement of the original creditor, Chase Manhattan Bank, in their September 9, 2015 letter to Plaintiff. For accounts Defendants receive from their debt buyer clients, Defendants' policy and procedure is to sue in the name of the debt buyer client, and not the name of the original creditor. In this case, Defendants' received Plaintiff's account from Defendant Regreso Financial Services, LLC ("Regreso"). Regreso is a debt buyer. Based on Defendants' policy and procedure, Defendants' employee should have identified the plaintiff in the September 9, 2015 letter as Regreso, and not Chase Manhattan Bank. The error occurred due to the failure of Defendants' employee to follow Defendants' policy and procedure in identifying Regreso as the plaintiff in the September 9, 2015 letter and failure to verify the case information, including names of parties, before the letter was sent.

Defendants allege that they unintentionally and mistakenly sought a renewal of the judgment obtained by Regreso against Plaintiff when, unbeknownst to Defendants, Regreso was suspended by the California Secretary of State. Defendants' policy and procedure is to rely on their clients' representation that the clients are in good standing with the California Secretary of State. Defendants reasonably relied upon the representations of their client Regreso, that Regreso was a corporation in good standing with the California Secretary of State. Defendants had no reason to believe that Regreso was suspended by the California Secretary of State at the time Defendants sought a renewal of judgment. As soon as they learned of Regreso's suspended status, Defendants notified Regreso.

**PRAYER FOR RELIEF**

WHEREFORE, Defendants respectfully request that the Court enter judgment against Plaintiff and in favor of Defendants in connection with all claims for relief in the Complaint, award Defendants their reasonable attorneys' fees and costs, and for such other and further relief as the Court deems just and equitable.

DATED: April 7, 2016

LEWIS BRISBOIS BISGAARD & SMITH LLP

By: /s/ Larissa G. Nefulda

Stephen H. Turner

Larissa G. Nefulda

Attorneys for Defendants

GOLDSMITH & HULL, APC and  
WILLIAM I. GOLDSMITH

**Exhibit 3**

Exh 2 Page 39

GOLDSMITH & HULL, APC/File No.04004569  
Michael L. Goldsmith, SBN 291700  
A Professional Corporation  
16933 Parthenia Street  
Northridge, CA 91343  
818-990-6600 Fax: 818-990-6140  
Govdept1@goldsmithcalaw.com

Attorneys for Defendant  
REGRESSO FINANCIAL SERVICES LLC.

**UNITED STATES DISTRICT COURT**  
**CENTRAL DISTRICT OF CALIFORNIA**

POVILAS KARCAUSKAS, on behalf )  
of himself and all others similarly )  
situated, )

Plaintiff, )

vs. )

REGRESSO FINANCIAL SERVICES )  
LLC; GOLDSMITH & HULL, APC; )  
WILLIAM I. GOLDSMITH; and )  
DOES 1 to 10, )  
Defendant. )

**CASE NO. 2:15-cv-09225-FMO-RAOx**

**DEFENDANT REGRESSO FINANCIAL  
SERVICES LLC'S FIRST AMENDED  
ANSWER**

Trial Date: Not Assigned

[Hon. Fernando M. Olguin]

Defendant REGRESSO FINANCIAL SERVICES LL'S (hereinafter  
"Defendant"), by and through their undersigned counsel, hereby file their First  
Amended Answer and Affirmative Defenses to the Plaintiff's Complaint filed by  
Plaintiff, POVILAS KARCAUSKAS ("Plaintiff").

///



**Jurisdiction**

1. Defendant admit the allegations contained therein.

**Parties**

2. Defendant admit the allegations contained therein.  
3. Defendant admit the allegations contained therein.  
4. Defendant admit the allegations contained therein.  
5. Defendant admit the allegations contained therein.  
6. Defendant admit the allegations contained therein.

**Facts Supporting Each Claim**

7. Defendant is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 7 of the Complaint and, therefore, deny the allegations.

8. Defendant is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 8 of the Complaint and, therefore, deny the allegations.

9. Defendant is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 9 of the Complaint and, therefore, deny the allegations.

10. Defendant admits the allegations contained therein.

11. Defendant admits the allegations contained therein.

12. Defendant admits the allegations contained therein.

13. Defendant admits the allegations contained therein. To no fault of Defendant, the California Secretary of State sent the renewal of license to an old address. Once knowledge of Defendant became aware of its suspension, Defendant immediately paid the renewal fees to invalidate the suspension.

14. Defendant admits the allegations contained therein. To no fault of

1 Defendant, the California Secretary of State sent the renewal of  
2 license to an old address. Once knowledge of Defendant became  
3 aware of its suspension, Defendant immediately paid the renewal fees  
4 to invalidate the suspension.

5 15. Defendant admits the allegations contained therein.

6 16. Defendant is without knowledge or information sufficient to form a  
7 belief as to the truth of the remaining allegations contained in  
8 paragraph 16 of the Complaint and, therefore, deny the allegations.

9 17. Defendant admits the allegations contained therein.

10 18. Defendant is without knowledge or information sufficient to form a  
11 belief as to the truth of the remaining allegations contained in paragraph 18 of the  
12 Complaint and, therefore, deny the allegations.

13 19. Defendant is without knowledge or information sufficient to form a  
14 belief as to the truth of the remaining allegations contained in paragraph 19 of the  
15 Complaint and, therefore, deny the allegations.

16 20. Defendant is without knowledge or information sufficient to form a  
17 belief as to the truth of the remaining allegations contained in paragraph 20 of the  
18 Complaint and, therefore, deny the allegations.

19 21. Defendant deny the allegations contained therein.  
20  
21  
22  
23  
24  
25  
26  
27  
28

**Class Action Allegations**

22. Defendant denies the allegations contained therein.

23. Defendant denies the allegations contained therein.

24. Defendant denies the allegations contained therein.

25. Defendant denies the allegations contained therein.

26. Defendant denies the allegations contained therein.

27. Defendant denies the allegations contained therein.

28. Defendant denies the allegations contained therein.

29. Defendant denies the allegations contained therein.

30. Defendant denies the allegations contained therein.

31. Defendant denies the allegations contained therein.

**COUNT 1**

32. Defendant respond to the allegations contained in the previous paragraphs of the Complaint as set forth above.

33. Defendant admits the allegations contained therein.

34. Defendant admits the allegations contained therein.

35. Defendant denies the allegations contained in paragraph 35, subsections a through 5 of the Complaint.

36. Defendant denies the allegations contained therein.

**COUNT 2**

37. Defendant respond to the allegations contained in the previous paragraphs of the Complaint as set forth above.

38. Defendant denies the allegations contained therein.

///

**AFFIRMATIVE DEFENSE**

**(Bona Fide Error Defense)**

Plaintiff's claims against Defendant under the FDCPA must be dismissed because any alleged violation was the result of a bona fide error notwithstanding the maintenance of procedures to prevent such errors. Defendant relies on the work of Goldsmith & Hull and is not actively involved in collection activities. Specifically, to the extent that Plaintiff claims Defendant misrepresented the status and involvement of the original creditor, Defendant received the amount when it purchased the debt. To the extent that Plaintiff claims Defendant threatened actions that cannot legally be taken, Defendant relies on the work Goldsmith & Hull for day to day collection activities. To the extent that Plaintiff claims Defendant attempted to collect an amount not permitted by law, Defendant verified the amount owed by Plaintiff when it purchased the debt.

**PRAYER FOR RELIEF**

WHEREFORE, Defendant respectfully requests that the Court enter judgment against Plaintiff and in favor of Defendant in connection with all claims for relief in the Complaint, award Defendant their reasonable attorneys' fees and costs, and for such other and further relief as the Court deems just and equitable.

Dated: March 9, 2015

GOLDSMITH & HULL, APC

\_\_\_\_\_  
/s/

Michael L. Goldsmith,  
GOLDSMITH & HULL, APC  
Attorneys for REGRESSO FINANCIAL SERVICES LLC.

**PROOF OF SERVICE**  
**STATE OF CALIFORNIA, COUNTY OF LOS ANGELES**

I am employed in the county of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is 16933 PARTHENIA ST. NORTHRIDGE, CALIFORNIA 91343.

On March 9, 2016, I served the foregoing document described as **DEFENDANT REGRESSO FINANCIA SERVICES LLC'S FIRST AMENDED ANSWER TO COMPLAINT** on the interested parties in this action by placing a true copy thereof enclosed in a sealed envelope addressed as follows:

See Service List

☐ (By Mail) On March 9, 2016, I caused such envelope with postage thereon fully prepaid to be placed in the United States mail at NORTHRIDGE, CALIFORNIA

☐ (State)I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

☐ (Federal)I declare that I am employed in the office of a member of the bar of this court at whose direction this service was made.

☒ (BY COURT'S CM/ECF SYSTEM) Pursuant to Local Rule, I electronically filed the documents with the Clerk of the Court using the CM/ECF system, which sent notification of that filing to the persons listed above

/S/  
S. Molina

**SERVICE LIST**

*Karcauskas v. Regreso Financial Services, LLC, et al.*  
United States District Court Case No.: 15-CV-09225-FMO-RAOx

Robert Stempler, Esq.  
CONSUMER LAW OFFICE OF ROBERT STEMPLER APLC  
P.O. Box 7145  
Oxnard, CA 93031-7145  
805-246-2300  
Fax: 805-576-7800  
Email: [stemplerlaw@gmail.com](mailto:stemplerlaw@gmail.com)  
*Attorneys for Plaintiff*

O Randolph Bragg, Esq.  
HORWITZ HORWITZ & ASSOCIATES  
25 East Washington Street Suite 900  
Chicago, IL 60602  
312-372-8822  
Fax: 312-372-1673  
Email: [rand@horwitzlaw.com](mailto:rand@horwitzlaw.com)  
Pro Hac Vice  
*Attorneys for Plaintiff*

Larissa Nefulda, Esq.  
LEWIS BRISBOIS BISGAARD & SMITH, LLP.  
633 West 5<sup>th</sup> Street, Ste. 4000  
Los Angeles, CA 90071  
Email: [Larissa.Nefulda@lewisbrisbois.com](mailto:Larissa.Nefulda@lewisbrisbois.com)  
Attorney for Defendants, Goldsmith & Hull APC & William I. Goldsmith

Stephen H. Turner, Esq.  
LEWIS BRISBOIS BISGAARD & SMITH, LLP.  
633 West 5<sup>th</sup> Street, Ste. 4000  
Los Angeles, CA 90071  
Email: [Stephen.Turner@lewisbrisbois.com](mailto:Stephen.Turner@lewisbrisbois.com)  
Attorney for Defendants, Goldsmith & Hull APC & William I. Goldsmith

**Exhibit 4**

Exh 2 Page 47

1 Robert Stempler, Cal. Bar No. 160299  
Email: Robert@StopCollectionHarassment.com  
2 CONSUMER LAW OFFICE OF  
ROBERT STEMLER, APC  
3 P.O. Box 7145; Oxnard, CA 93031-7145  
Telephone (805) 246-2300  
4 Fax: (805) 576-7800

5 O. Randolph Bragg, Attorney Admitted *Pro Hac Vice*  
Email: rand@horwitzlaw.com  
6 HORWITZ, HORWITZ & ASSOCIATES  
25 East Washington Street, Suite 900; Chicago, IL 60602  
7 Telephone (312) 372-8822  
Facsimile (312) 372-1673  
8

9 Counsel for Plaintiff-Moving Party  
10

11 UNITED STATES DISTRICT COURT  
12 CENTRAL DISTRICT OF CALIFORNIA  
13

14 POVILAS KARCAUSKAS,  
on behalf of himself and all  
15 others similarly situated,

16 Plaintiff,

17 vs.

18 REGRESO FINANCIAL  
SERVICES LLC; et al.;

19 Defendants.  
20  
21  
22  
23

Case No. 2:15-cv-09225-FMO-RAOx

DECLARATION OF ROBERT  
STEMPLER IN SUPPORT OF PLAINTIFF  
POVILAS KARCAUSKAS' MOTION TO  
COMPEL FURTHER RESPONSES AND  
DOCUMENT PRODUCTION

24 ///

25 ///

26 ///



1 I, Robert Stempler, declare under penalty of perjury, as provided by the laws  
2 of the United States, at 28 U.S.C. § 1746, that the following statements are true:

3 1. I am an attorney and counselor at law, duly admitted to practice before  
4 this court, and one of the counsel of record for the plaintiff.

5 2. In my capacity as a counsel of record for the plaintiff, I have personal  
6 knowledge of the matters stated in this declaration.

7 3. This declaration is being submitted in support of the Plaintiff's motion  
8 to compel further responses and document production from defendant GOLDSMITH  
9 & HULL, APC (referred to as "G&H") and from defendant WILLIAM I.  
10 GOLDSMITH (referred to as "Goldsmith") (referred to collectively as "Defendants")  
11 to Plaintiff's written discovery requests, as indicated in the joint stipulation.  
12

13 Authentication of Exhibits Attached to the Joint Stipulation

14 4. Attached as Exhibit 6 is a true and correct copy of the printout pertaining  
15 to Plaintiff from G&H's computer collection system, as emailed to me on August 9,  
16 2016 from the defendants' law office, by Erika Gomez, Legal Assistant to Stephen  
17 H. Turner and Larissa Nefulda.

18 5. Attached as Exhibits 1, 2, 3, 7, 8 and 9 is a true and correct copy of  
19 pleadings and orders filed in this case, pursuant to Local Rule 37-2.1.  
20

21 Meet and Confer Efforts related to the Disputed Discovery

22 6. On May 18, 2016, I sent by email to the responding parties' counsel  
23 Plaintiff's meet and confer letter related to their first sets of discovery responses,  
24 which consisted of 42 single-spaced pages in Times New Roman 12-point font. The  
25 letter requested that we meet and confer within 10 days, pursuant to L.R. 37-1 and  
26 FRCP rule 37. I expended 5.4 hours preparing it.

27 7. On May 31, 2016, Mr. Bragg and I met and conferred with one of  
28 Responding Party's counsel, Larissa Nefulda, concerning the items in dispute,

1 pursuant to Plaintiff's meet and confer letter. The conversation length was 0.80 hours  
2 and we discussed the items in dispute, pursuant to the meet and confer letter. Related  
3 to the items that are the subject of this motion, our meet and confer phone  
4 conversation covered the proposed resolutions indicated under Plaintiff's contentions  
5 in the Joint Stipulation regarding that particular item. Ms. Nefulda agreed to serve  
6 amended responses by June 8, 2016 and we agreed to send her a clarification related  
7 to interrogatory #10, which I sent her by email later that day, to wit:

8 Letters in the form of EXHIBIT A means letters sent by G&H on or after  
9 November 30, 2014 containing the language: "A Civil Judgment has  
10 been obtained. If you are employed, your employer must comply with a  
11 wage garnishment order, if it is levied upon them. Pursuant to California  
12 Code of Civil Procedure §706.020-706.151, an employer must fully  
13 cooperate and follow the wage assignment as ordered by the Court."

14 8. On June 2, 2016, as part of our meet and confer efforts, I received by  
15 email from Ms. Nefulda a proposed stipulation for protective order. After several  
16 exchanges with counsel of revised drafts, the parties agreed to a protective order,  
17 which the Court entered as Docket No. 54 on July 7, 2016.

18 9. On June 9, 2016, we received by email an invitation to download  
19 amended discovery responses from the Defendants, which resolved some of  
20 Plaintiff's concerns but left many other concerns unresolved.

21 10. On June 13, 2016, I sent by email to the responding parties' counsel  
22 Plaintiff's meet and confer letter related to their first sets of discovery responses as  
23 amended, which consisted of 42 single-spaced pages in Times New Roman 12-point  
24 font. The letter requested that we meet and confer within 10 days, pursuant to L.R.  
25 37-1 and FRCP rule 37. I expended 3.8 hours preparing it.

26 11. On June 23, 2016, I met and conferred with one of Responding Party's  
27 counsel, Larissa Nefulda, concerning the items in dispute, pursuant to Plaintiff's meet  
28 and confer letter. The conversation length was 1.20 hours and we discussed the items

1 in dispute, pursuant to the meet and confer letter. Related to the items that are the  
2 subject of this motion, our meet and confer phone conversation covered the proposed  
3 resolutions indicated under Plaintiff's contentions in the Joint Stipulation regarding  
4 that particular item. Ms. Nefulda agreed to serve further amended responses.

5 12. On June 29, 2016, we received by email the second amended discovery  
6 responses from the Defendants, which resolved several more of Plaintiff's concerns  
7 but left many other concerns unresolved. On this date, we also received the  
8 Defendants' responses to Plaintiff's sets number 2.

9 13. On July 5, 2016, I sent by email to the responding parties' counsel  
10 Plaintiff's meet and confer letter related to their second sets of discovery responses,  
11 which consisted of 34 single-spaced pages in Times New Roman 12-point font. The  
12 letter requested that we meet and confer within 10 days, pursuant to L.R. 37-1 and  
13 FRCP rule 37. I expended 2.5 hours preparing it.

14 14. On July 18, 2016, I met and conferred with one of Responding Party's  
15 counsel, Larissa Nefulda, concerning the items in dispute, pursuant to Plaintiff's meet  
16 and confer letter. The conversation length was 0.60 hours and we discussed the items  
17 in dispute, pursuant to the meet and confer letter, but since this conversation included  
18 about 0.10 hours of other matters, I attribute only 0.50 hours to this discovery dispute.  
19 Related to the items that are the subject of this motion, our meet and confer phone  
20 conversation covered the proposed resolutions indicated under Plaintiff's contentions  
21 in the Joint Stipulation regarding that particular item. Ms. Nefulda agreed to serve  
22 further amended responses.

23 15. On August 5, 2016, we received by email the amended discovery  
24 responses from the Defendants to sets number 2, which resolved some of Plaintiff's  
25 concerns but left many other concerns unresolved.

26 16. On August 9, 2016, we received by email the documents from the  
27 Defendants that were internally numbered GH 000201 thru GH 000222, of which 201  
28

1 thru 204 were designated as "CONFIDENTIAL" as they pertain to the redacted  
2 financial statements of G&H for the calendar years 2014 and 2015.

3 17. On August 11, 2016, Plaintiff took the deposition of G&H's Rule  
4 30(b)(6) witness, who was Mr. Goldsmith.

5 18. On August 26, 2016, I received a link from the court reporter, Huseby  
6 Inc., formerly known as Maxene Weinberg Agency, which allowed me to access the  
7 deposition transcript from August 11, 2016.

8 19. On August 31, 2016, I called Ms. Nefulda and left a voice message then  
9 sent an email to the defendants' counsel requesting a phone conference. Shortly after,  
10 Mr. Turner contacted me and we had further telephone meet and confer on several  
11 subjects, which remained unresolved from the written discovery and production of  
12 documents GH 000201 thru GH 000222 and the deposition of G&H. In particular, we  
13 discussed the missing financial information as to G&H and production of the  
14 collection call logs for other consumers, similar to the collection call logs that  
15 Defendants produced for Mr. Karcauskas on August 5, 2016. Mr. Turner advised me  
16 that he would attempt to provide the requested information within a week. During  
17 our meet and confer, I advised Mr. Turner of two U.S. District Court cases related to  
18 a motion to compel documents needed to determine an FDCPA defendant's net worth,  
19 then I emailed those case citations to him and Ms. Nefulda that afternoon. We also  
20 discussed getting further financial statements and unredacted financial statements and  
21 the name of the accountant who prepared the financial statements, which we had also  
22 discussed during the deposition. The conversation length was 0.50 hours.

23 20. On September 9, 2016, Mr. Turner emailed me that he had to deal with  
24 a medical issue, so he was unable to timely provide me further information on the  
25 subject that we discussed on August 31, 2016.

26 21. On September 13, 2016, I emailed to the counsel for Defendants the  
27 Joint Stipulation (as prepared for Plaintiff's contentions), this declaration, and the  
28 exhibits in support of the motion to compel.

22. Despite the foregoing meet and confer efforts and Plaintiff's counsel's requests to fully respond and withdraw the improperly asserted objections, the responding party failed to fully respond to/answer/produce documents responsive to each of the disputed items included in the Joint Stipulation. Thus, this motion to compel is necessary to obtain sufficient discovery responses on numerosity of class members, Defendants' net worth, and approval and use of the L4AR form letters (Exhibit A to the Complaint).

### Preparation of Plaintiff's Motion to Compel and Support Declaration

23. If the Court sees fit to award attorney's fees, pursuant to rule 37(a)(5) of the Federal Rules of Civil Procedure, against the responding party and/or its counsel, my co-counsel and I will file an appropriate declaration of Plaintiff's fees and costs incurred.

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed September 13, 2016.

/s/  
Robert Stempler, as one of the  
Attorneys for Plaintiff

**Exhibit 5**

Exh 2 Page 54

**Exhibit 6**

Exh 2 Page 55



Case 04-000435-2257 - peter - Session 6614 - Trial for WRITORS  
Action: GET Case Information: Done

Review Open Post Judgment File: 04004569 Time: 32:36:13

Client: 1716 Regreso Financial Services File: 5491041429002784 Thru: 08/08/2016  
Coco: 0 CFile: Placed: 8443.94  
Cred: 0 Chase Manhattan Bank Atty: 5 Coll: 64 Charges: 14043.67  
Legal Info: 118-CA-EJJ 181490 Para: 86 Sales: 0 Int: 10.00% 2839.00  
Status: Status - SCD Status: SCD 03/26/2007 Credits:  
Per Diem: 6,1054 Doc: 14AR 01/04/2016 Total Due: 25326.61

DEBTORS = 1

1	Relation	Debtor	RF	Phone	City	St	A	E	B	C	J	R	P
1	MAIN	Karcuska/Povilas-NO LETT		Cease & Desist	Porter Ranch	CA			E			J	

Name: Chase Manhattan Bank Plaintiff: REGRESO FINANCIAL SERVICES  
@ Services Services  
Street: 16000 Ventura Blvd.  
C,S Z: Encino, CA 91436  
Phone: Fax:  
Email:  
O Cred: Purchase Date:  
O Acc#: Purchase Amt:

Select Screen (1-8) 7

1	2	3	4	5	6	7	8	9	10
1	2	3	4	5	6	7	8	9	10
1	2	3	4	5	6	7	8	9	10

04004569 | Chase Manhattan Bank V. Karcuska/Povilas-K | \$22,497.61 | \$25,326.61



(93)H568 Chose Maritation Bay V. Kora. 25.00 Poni-as-4: } \$22,497.61; \$25,306.61

Case 8:14-cv-00000-peter Session 661 of 1111 for WILCOX

Employer

Employer Number: 15872 1-3-110a

Employer Name: Brand Batteries LLC  
Street: 4407 W Sunset Blvd #296  
PO Box:  
City, State: Los Angeles CA Zip: 90027

Phone: 877/413-5397  
Extension: 310/598-5223  
Fax: 310/598-5917

Attention:  
Salutation:  
Payroll Dept:

Email:  
Home Page:

1. Employer File [F6] Print Sheet

[F2] Search [F12] Paperless [F4] Labels [F6] Print [F5] Next OK

04/09/2016 | Chase Manhattan Bank N.A. | \$22,497.61 / \$25,326.61

File: 04004569 Time: 32:36:03

Review Open Post Judgment

Client: 1716 Regreso Financial Services File: 5491041429002784 Thru: 08/08/2016

Coco: 0 CFile: Placed: 8443.94

Cred: 0 Chase Manhattan Bank Atty: 5 Coll: 64 Charges: 14043.67

Legal Info: 118-CA-[J] 181490 Para: 86 Sales: 0 Int: 10.00% 2839.00

Status: Status - SCD Status: SCD 03/26/2007 Credits:

Per Diem: 6.1054 Doc: 14AR 01/04/2016 Total Due: 25326.61

#	Relation	Debtor	RF	Phone	City	St	A	E	B	C	J	R	P
1	MAIN	Karcuska/Povillas-NO LETTE	Dease & Desist	Porter Ranch	CA			E				J	

#1 Rel: MAIN Resp Prty: Caption: C&D: Y SSN: \*\*\*\*\*-2348

Name: Karcuska/Povillas-NO LETTERS1 D/L:

Alias: Fax:

Street: 11752 Mariposa Bay Ln. Phone 1: N 323/423-7266

C, S Z: Porter Ranch CA 91326 Phone 2: :

Email: \*\*\*\*\*ATTY FILE Mobile Ph: :

HomePg: NO LETTERS\*\*\*\*\* Dob: \*\*/\*\*/1979 Dod:

FICO: 0 C.S.: 0 Other: 0 Srv: 03/18/2005 Typ:

A F: Dsm:

[F1] Add Debtor [F3] Rel Parties [Sh+F6] Rebuild Caption [F8] Delete [F9] Modify

Debit Bankruptcy Judgment Caption Phone Address History Call Screen

[F10] Search Search OK Red Cross

04004569 | Chase Manhattan Bank V. Karcuska/Povillas-K | \$22,487.61 / \$25,326.61

Case Manhattan Ba

[Vs. Karcauska/Povilas-

**Court Case:** 181490  
**Judgment:** \$22,433.61

**Debtor Balance:** \$22,487.61  
**Interest Due:** \$2,839.00  
**Total Due:** \$25,326.61

Date	Time	Init	Code	Notes
10/05/2004	14:20:58	VB	*D1_STRT	124 CASAB
			*COMM	Added new Information
			*SFEE	Added new Information
10/12/2004	16:18:46	VB	L924	DEMAND LETTER/REGRESO
10/13/2004	12:06:13	RS	RS	12:06 s1
			s4	Initial Demand made
			s5	Attempting Contact w/Dt
10/13/2004	15:42:41	VB	L925	DEBTOR ADDRESS LABE
10/14/2004	14:58:58	VB	L924	DEMAND LETTER/REGRESO
10/15/2004	12:14:09	RS	*Paralgl	Paralegal #: Changed from 1 to 66
			*Attorny	Attorney #: Changed from 1 to 18
			*Colict	Added new Collector #: #66
10/25/2004	12:20:49	MD	Michael	Owner Name: EDDY STEPHANY B

Date	Time	Init	Code	Notes
				Mail Addr: 124 CASABELLA DR
				SONOMA, CA 95476-3389
				Phone: (707) 933-8118
				Ownership Rights:
				Owner Relationship: DIVORCED
				Parcel Number: 056132005
				Property Addr: 124 CASABELLA DR
				SONOMA, CA 95476-3389
				County: Sonoma
				FIPS Code: 06097
				Carrier Route: 0024
				Legal Description: MAP C4 166
				Seller: NISSON JOHN E & HOPE D
				Sale Date: 11/15/1999 Sale Price: \$255,000.00
				Number of sale records found: 3
				Recent sale? Yes
				Michael
				12:20 the d is a renter ***
				Michael
				12:22 called hp gt atm ltr msg for the d to
				call me back **
				S5
				Attempting Contact w/Dir
				Michael
				12:24 called the hp ft to property owner son sd
				tht the d is nt living there they purchased the
				home from the people who rented the home to the
				d *****
				S5
				Attempting Contact w/Dir
				Michael
				12:28 checked account gt same address and poss hp
				its disco **
				*D1 NAME
				KARCAUSKA/POVLAS
				*D1 STRT
				124 CASABELLA CR



Date	Time	Init	Code	Notes
			*D1_CSZ	SONOMA CA '95476
			*D1_SSN	'613982348
			*FFILE#	'5491041429002784
	18:07:49		L473	Tenancy Verification Ltr
10/27/2004	14:06:04	SR	SR	14:06 Ph RA # lmtc on answ mach...
			S5	Attempting Contact w/Dir
10/28/2004	15:58:36	MD	Michael	15:58 recieved call from proptry owner sd that she has owned proptry for over 5yrs no such person ***
10/29/2004	09:19:50	RR	RR	09:19 No assets or ph's***merlin, account, power finder & prf.
11/03/2004	14:09:38	VB	L472	Post Office Box search Lso Angeles
11/09/2004	18:40:48	MD	Michael	18:40 called hp gt a/m ltr mesg for the d ipo call me back ***
11/19/2004	11:10:52	MD	Michael	11:10 ***** NET IS DOWN CNT SP ACCOUNT *****
11/22/2004	13:56:00	RA	Carolyn	13:56 called hp someone plu phone but hung up
12/02/2004	14:30:00	VB	L23	Retail Demand Letter
12/14/2004	17:54:22	MD	Michael	17:54 called hp gt a/m ltr mesg for the d ipo call me back ***
			Michael	17:55 ***** SUIT NEXT PASS *****
			S5	Attempting Contact w/Dir

Date	Time	Init	Code	Notes
12/15/2004	11:21:11	MD	Michael	11:21 RECIEVED CALL FROM THE D EX GIRLFRIEND SD THAT THE D MOVED BACK HOME TO HIS PARENTS IN SNOMA NO FORWARD INFO "
01/05/2005	11:53:00	MD	Michael	11:53 CANT FIND ADDRESS FOR THE D I WILL ASK GARY FOR NEW ADDRESS FOR SUIT ***
	11:54:36		Michael	11:54 SENT EMAIL TO GARY FOR POSS POE OR HOME ADDRESS SO WE CAN GET THE D SERVD
	11:55:00		SS	Attempting Contact w/Dir
01/05/2005	12:00:53	GS	GR	Name: KARCAUSKAS, POVILAS Possible Current Address Address: 19235 TWIN OAKS LN SSN: 613982348 SONOMA, CA 95476-6264 Valid SSN -- Issued by California File Since Date: 05/01/1998 Telephone: 7079390687 Birth month/year: Date Reported: 01/01/2000
	12:03:10		*D1_STRT	Added new Information
	12:08:07		*D1_STRT	19325 Twin Oak Lane
	12:13:32		GR	NERIUS KARCAUSKAS 1947 47TH AVE SAN FRANCISCO, CA 94116-1046 SSN: 469-35-4027 DOB - 1977 (28) Phones - (415) 753-1671

Exh 2 Page 64



P

Date	Time	Init	Code	Notes
			*DEL-11	Abstract only/issued:abst. waiting 4check
			*ADD-11	Abstract only/issued:abst. out 4 issuance
07/21/2005	17:01:05	EGG	*DEL-87	Reimb G&H for advc'd
			*DEL-87	Reimb G&H for advc'd
08/01/2005	11:02:14	IA	lv Amag	11:02 abst. issued on 07/21/05 county of sonoma
			L1RWMA	rotiner instr/writ & abstr
	11:03:48		*DEL-11	Abstract only/issued:abst. out 4 issuance
			*ADD-11	Abstract only/issued:ABST. RECORDING
08/02/2005	09:55:36	E_P	*DEL-174	Carta's Special Desk:ide?
09/02/2005	11:44:29	EGG	56	Record Abstract \$17.00
			95	Invoice Billed \$17.00
09/06/2005	11:14:28	IA	S88	Abstract out for Recording
			*DEL-11	Abstract only/issued:ABST. RECORDING
			*ADD-11	Abstract only/issued out 4 recording
09/26/2005	10:49:41	KPS	S19	Lien recorded COPY
				2005138470 SONOMA COUNTY 09/19/05
10/17/2005	15:50:20	IA	*DEL-11	Abstract only/issued out 4 recording
11/18/2005	10:55:05	EGG	*SFEE	22.0
05/12/2006	15:30:36	HG	HG	15:30 *DEATH INDX: NOT DEAD

Case 2:15-cv-09225-FMO-RAO

Exh 2 Page 68

Date	Time	Init	Code	Notes
12/16/2009	16:23:51	HG	HG	16:23 ***** expn revd ***** *poe: brand batteries LLC *adrs: 1377 S Beverly Glen Bv #408 -LA CA 90024 *DOB: 2/28/1979 -FOUND BSNS @ 4407 WEST SUNSET BLVD-LA CA 90027 -PH#877-413-5397 & 310-598-5223 >FX310-598-5917 -CLD BUT NO ANSWER AFTER SVRL RINGS @ EITHER #.
	16:47:10		HG	16:47 *NANCY, PLZ F/U UP ON THIS POE. CLD BOTH #S BUT NEITHER ANSWERS. I HVE A STRONG FEELING -DTR IS STILL ACTIVE HERE. PLS F/U & LET ME KNOW -WHEN YOU GET THRU.
12/21/2009	10:03:45	HG	HG	10:03 -Walked into to Cesar to f/u. File is odd# *****
	10:07:29		CLAIM	Claim: 1 Fields Added
			*Empty1	Added new Employer 1 #: #15872
12/21/2009	11:17:50	CC	S1001	POST JUDGMENT EFFORT11:17ICALLED ALL 3 NUMBERS LISTED FOR POE NO ANS NO MSG TO FULL .CC
			S1001	POST JUDGMENT EFFORT11:18 RECEIVED CREDIT REPORT EVERYTHING IS PAID FOR .CC
	12:11:58		L4AR	POST JUDG. PRE-GARN. LETTER
04/13/2011	09:36:05	AR	*D1_SSN	***-2348
12/14/2011	14:28:36	CC	L29	Settlement Letter \$13,146.00
11/22/2013	16:05:38	CK	S5	Attempting Contact w/Dtr

Date	Time	Init	Code	Notes
	16:08:16		*DEL-84	Felicia's Retail 09/27/2011:
			*ADD-175	Gurleen Kaur
	16:12:18		Gurleen	16:12 (707) 812-0070 male said his name is Paul. Not Povilas.
			*D1_STRT	19325 Twin Oaks Lane
			*D1_CSZ	Sonoma CA 95476
			*D1_DOB	Added new information
	16:15:49		*CLAIM	Claim:3 Fields Modified
			*Colctr	Collector #: Changed from 92 to 64
	16:27:30		*DEL-175	Gurleen Kaur 11/29/2013:
			*ADD-175	Gurleen Kaur
			*DEL-175	Gurleen Kaur 01/10/2014:
			*ADD-175	Gurleen Kaur
11/25/2013	08:35:46	GK	L1001	Judgment Notice
12/19/2013	09:48:18	GK	s5	Attempting Contact w/Dtr
			*DEL-175	Gurleen Kaur 11/29/2013:
			*ADD-175	Gurleen Kaur
01/07/2014	12:24:27	GK	s5	Attempting Contact w/Dtr
12:25:26			*DEL-175	Gurleen Kaur 12/26/2013:



Date	Time	Init	Code	Notes
			*ADD-175	Gurteen Kaur
	13:37:29		L29	Settlement Letter \$500.00 Monthly BIF
06/17/2014	10:08:10	CC	s5	Attempting Contact w/Dir
			*DEL-175	Gurteen Kaur 01/28/2014:
			*ADD-175	Gurteen Kaur
			S5	Attempting Contact w/Dir
11/04/2014	14:54:11	GK	S3P	Skip Phone Number
			*DEL-175	Gurteen Kaur 07/08/2014:
			*ADD-175	Gurteen Kaur
			L29	Settlement Letter \$11,500.00 11/21/2014
03/30/2015	16:35:35	HG	HG	16:35 *Lexis: new adrs 11752 mariposa Bay Ln
				-Dir is involved in svr Bsns. Will renew this one.
				-Will have RH /fu as well to see if he can work a deal
	16:41:18		*ADD-75	Judgment Renewal Exp 6/2/2015
			*D1_STRT	1508 S BEVERLY GLEN BLVD APT 4
			*D1_CSZ	LOS ANGELES CA 90024
04/15/2015	14:19:53	EGG	80	OTHER 'COST' RENEWAL JOGMNT \$30.00
			95	Invoice Billed \$30.00

Date	Time	Init	Code	Notes
04/28/2015	08:03:33	JS	LROTTREN	Rotiner Renewal of Judgment
	16:01:07		*DEL-75	Judgment Renewal Exp. 6/2/2015
			*ADD-79	Jennifer-Renewal For:Bk from Crt yet?
05/13/2015	12:03:21	RH	S5	Attempting Contact w/Dtr
			L1001	Judgment Notice
06/05/2015	14:45:08	JS	LPOSSE	PofS - Renewal of Jdgmt.
06/11/2015	15:11:57	PG	S5	Attempting Contact w/Dtr
06/13/2015	09:39:04	JS	*DEL-79	Jennifer-Renewal For:Bk from Crt yet?
			*ADD-79	Jennifer-Renewal For:Out 4 Service
			*DBT001	Debtor 2 Fields Modified
	09:40:09		*CLAIM	Claim:13 Fields Modified
			92	Judgment Entered \$22,433.61
07/09/2015	16:11:07	GK	s3p	Skip Phone Number
			s3	Skip Tracer w/kg file
			*DEL-175	Gurleen Kaur 11/25/2014:
			*ADD-175	Gurleen Kaur
07/27/2015	16:38:10	BA	BA	16:38 *****
				GIVE NOTICE AND MOTION TO MICHAEL
09/09/2015	12:27:51	CAA	IF	12:27 OUTBOUND 323/423-7266 DBTR NOT HOME HIS



Date	Time	Init	Code	Notes
				WIFE ANSWERED AND SAID SHE DID NOT KNW WHEN HE
				WOULD BE IN. I VERIFIED ADDRESS ON FILE IS GOOD
				TOLD HER THINKS AND THT I WILL MAIL OUT A
				LETTER
	12:32:51		*D1_PHN	Added new Information
	12:33:03		L4AR	POST JUDG. PRE-GARN. LETTER
01/04/2016	11:35:11	NB	L4AR	POST JUDG. PRE-GARN. LETTER

**Exhibit 7**

Exh 2 Page 74

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

POVILAS KARCAUSKAS,

Plaintiff,

v.

REGRESO FINANCIAL SERVICES LLC,  
et al.,

Defendants.

Case No. CV 15-9225 FMO (RAOx)

**SCHEDULING AND CASE MANAGEMENT  
ORDER RE: JURY TRIAL**

**PLEASE READ THIS ORDER CAREFULLY. IT GOVERNS THIS CASE AND DIFFERS  
IN SOME RESPECTS FROM THE LOCAL RULES.**

**The term “Counsel,” as used in this Order, includes parties appearing pro se.**

The court has scheduled the dates set forth on the last **three** pages of this Order after review of the parties’ Joint Rule 26(f) Report. Therefore, the court deems a Scheduling Conference unnecessary and hereby **vacates** the hearing. The dates and requirements set forth in this Order are firm. The court is unlikely to grant continuances, even if stipulated by the parties, unless the parties establish good cause through a proper showing.

In an effort to comply with Fed. R. Civ. P. 1’s mandate “to secure the just, speedy, and inexpensive determination of every action[,]” the court **orders** as follows.

I. JOINDER OF PARTIES/AMENDMENT OF PLEADINGS.

Any stipulation or motion to amend as to any claims, defenses and/or parties shall be lodged/filed by the deadline set forth in the attached schedule, failing which it shall be deemed that the party has waived any such amendments. All unserved parties not timely served shall be dismissed without prejudice. In addition, all "Doe" defendants are to be identified and named on or before the date set forth below, on which date all remaining "Doe" defendants will be dismissed, unless otherwise ordered by the court upon a showing of good cause.

II. DISCOVERY.

A. Generally.

Discovery is governed by the Federal Rules of Civil Procedure and applicable Local Rules of the Central District of California. Pro se litigants are entitled to discovery to the same extent as are litigants represented by counsel. The court allows discovery to commence as soon as the first answer or motion to dismiss is filed. The parties should note that absent exceptional circumstances, **discovery shall not be stayed** while any motion is pending, including any motion to dismiss or motion for protective order. **The parties are directed to conduct any necessary discovery as soon as possible, as the court is not inclined to grant any extensions of the discovery or other case-related deadlines.**

Counsel are expected to comply with the Federal Rules of Civil Procedure and all Local Rules concerning discovery. Whenever possible, the court expects counsel to resolve discovery disputes among themselves in a courteous, reasonable and professional manner. The court expects that counsel will adhere strictly to the Civility and Professionalism Guidelines (which can be found on the Central District's website under Information for Attorneys>Attorney Admissions).

B. Discovery Cut-Off.

The court has established a cut-off date for discovery, including expert discovery, if applicable. This is not the date by which discovery requests must be served; it is the date by which all discovery, **including all hearings on any related motions**, is to be completed.

C. Discovery Motions.

1 Any motion relating to a deposition and/or challenging the adequacy of discovery responses  
2 must be filed, served and calendared sufficiently in advance of the discovery cut-off date to permit  
3 the responses to be obtained and/or the deposition to be completed before the discovery cut-off  
4 if the motion is granted. Given the requirements set forth in the Local Rules (e.g., "meet and  
5 confer" and preparation of the Joint Stipulation), any party seeking to file a discovery motion must  
6 usually initiate meet and confer discussions at least seven (7) weeks before the discovery cut-off,  
7 i.e., the moving party's counsel must initiate the meet and confer process by preparing and serving  
8 the letter required by Local Rule 37-1.

9 D. Expert Discovery.

10 All disclosures must be made in writing. The parties should begin expert discovery shortly  
11 after the initial designation of experts. The final pretrial conference and trial dates will not be  
12 continued because expert discovery is not completed. Failure to comply with these or any other  
13 orders concerning expert discovery may result in the expert being excluded as a witness.

14 III. MOTIONS.

15 The court has established a cut-off date for the filing and service of motions for the court's  
16 law and motion calendar. Counsel should consult the court's Standing Order, located on the  
17 Central District's website, to determine the court's requirements concerning motions and other  
18 matters. If documentary evidence in support of or in opposition to a motion exceeds 50 pages,  
19 the evidence must be separately bound and tabbed and include an index. If such evidence  
20 exceeds **300 pages**, the documents shall be placed in a **three-ring binder**, with an index and with  
21 each item of evidence separated by a tab divider on the right side. In addition, counsel shall  
22 provide an electronic copy (i.e., cd, dvd, or flash drive) of the documents in a single, OCR-  
23 scanned, .pdf file with each item of evidence separated by labeled bookmarks. Counsel shall  
24 ensure that all documents are legible. Counsel are strongly encouraged to cite to Docket numbers  
25 (and sub-numbers) when citing to the record.

26 Counsel should also consult the Central District's website at  
27 [www.cacd.uscourts.gov](http://www.cacd.uscourts.gov)>Judges' Requirements>Judges' Procedures and Schedules>Hon.  
28 Fernando M. Olguin for further information regarding motion procedures.

1 IV. SETTLEMENT.

2 Pursuant to Local Rule 16-15, the parties must complete a settlement conference. **No case**  
3 **will proceed to trial unless all parties, including the principals of all corporate parties, have**  
4 **appeared personally at a settlement conference.**

5 If the case settles, counsel shall file a Notice of Settlement no later than 24 hours after the  
6 case is settled, stating when they expect to file their dismissal papers. Otherwise, **the parties**  
7 **must, no later than 48 hours after the settlement proceeding is completed, file a Status**  
8 **Report Re: Settlement.** The Status Report shall not disclose the parties' settlement positions,  
9 i.e., the terms of any offers or demands. The Status Report shall describe the efforts made by the  
10 parties to resolve the dispute, i.e., the occasions and dates when the parties participated in  
11 mediation or settlement conferences. The Status Report shall also include the name of the  
12 Settlement Officer who assisted the parties with their settlement conference.

13 V. TRIAL PREPARATION.

14 A. Final Pretrial Conference.

15 Unless excused for good cause, each party appearing in this action shall be represented  
16 at the final pretrial conference by the attorney who is to serve as lead trial counsel. Counsel must  
17 be prepared to discuss streamlining the trial, including presentation of testimony by deposition  
18 excerpts or summaries, time limits, stipulations as to undisputed facts and qualification of experts  
19 by admitted resumes.

20 B. Pretrial Documents.

21 The filing schedule for pretrial documents is set forth on the last few pages of this Order.  
22 **Unless otherwise indicated, compliance with Local Rule 16 is required. The court does not**  
23 **exempt pro se parties from the requirements of this Order or Local Rule 16.** Carefully  
24 prepared memoranda of contentions of fact and law, witness lists, a pretrial exhibit stipulation and  
25 a proposed pretrial conference order shall be submitted in accordance with the Local Rules and  
26 the requirements set forth in this Order. All pretrial document copies shall be delivered to the court  
27 "binder-ready" (three-hole punched on the left side, without blue-backs and stapled only in the top  
28

1 left corner). Failure to comply with these requirements may result in the imposition of sanctions  
2 as well as the pretrial conference being taken off-calendar or continued.

3 **1. Witness Lists.**

4 In addition to the requirements of Local Rule 16-5, the witness lists must include a brief  
5 description (one or two paragraphs) of the testimony and a time estimate for both direct and cross-  
6 examination (separately stated).

7 **2. Pretrial Exhibit Stipulation.<sup>1</sup>**

8 **No later than 21 days before the final pretrial conference**, counsel shall conduct a good  
9 faith meet and confer in person and prepare a Pretrial Exhibit Stipulation. The Pretrial Exhibit  
10 Stipulation shall contain each party's numbered list of trial exhibits, with objections, if any, to each  
11 exhibit, including the basis of the objection and the offering party's brief response. All exhibits to  
12 which there is no objection shall be deemed admitted. The parties shall stipulate to the  
13 authenticity and foundation of exhibits whenever possible, and the Pretrial Exhibit Stipulation shall  
14 identify any exhibits to which authenticity or foundation have not been stipulated and the specific  
15 reasons for the parties' failure to stipulate.

16 The Pretrial Exhibit Stipulation shall be substantially in the following form:

17 **Pretrial Exhibit Stipulation**

18 **Plaintiff(s)/Defendant(s)' Exhibits**

19 **Exhibit No.   Description                      Stip. to Adm.?<sup>2</sup>      Objection                      Response to Objection**

20  
21 Failure to comply with this paragraph may be deemed a waiver of all objections. **Do not**  
22 **submit** blanket or boilerplate objections to the opposing party's exhibits. These will be  
23 disregarded and overruled.

24 **3. Proposed Pretrial Conference Order.**

25  
26 

---

<sup>1</sup> It is not necessary to file the Joint Exhibit List required by Local Rule 16-6.1.

27 <sup>2</sup> The Pretrial Exhibit Stipulation shall indicate in this column whether an exhibit is admitted for  
28 identification purposes only.



1 The format of the proposed final pretrial conference order shall conform to the format set  
2 forth in Appendix A to the Local Rules. In drafting the proposed pretrial conference order, the  
3 parties shall attempt to agree on and set forth as many non-contested facts as possible. The court  
4 will usually read the uncontested facts to the jury at the start of trial. A carefully drafted and  
5 comprehensively stated stipulation of facts will reduce the length of trial and increase jury  
6 understanding of the case.

7 C. Joint Statement of the Case.

8 **At the time the proposed final pretrial conference order is lodged with the court,**  
9 counsel shall file an objective, non-argumentative statement of the case, which the court shall read  
10 to all prospective jurors at the beginning of voir dire. The statement should not exceed one page.

11 D. Motions In Limine.

12 Each party is allowed a maximum of five motions in limine, which must be filed no later than  
13 the deadline set forth below. In the event a party believes that more than five motions in limine  
14 are necessary, the party must obtain leave of court to file additional motions in limine. The court  
15 will not hear or resolve motions in limine that are disguised summary judgment motions.

16 Before filing any motion in limine, counsel for the parties shall confer in a good faith effort  
17 to eliminate the necessity for the filing of the motion in limine or to eliminate as many of the  
18 disputes as possible. It shall be the responsibility of counsel for the moving party to arrange for  
19 this conference. The conference shall take place in person, with a court reporter present, within  
20 seven (7) calendar days of service upon opposing counsel of a letter requesting such conference,  
21 but in no event later than fourteen (14) days before the deadline for filing motions in limine. Unless  
22 counsel agree otherwise, the conference shall take place at the office of counsel for the moving  
23 party. The moving party's letter shall identify the testimony, exhibits, or other specific matters  
24 alleged to be inadmissible and/or prejudicial, shall state thoroughly with respect to each such  
25 matter the moving party's position (and provide any legal authority which the moving party believes  
26 is dispositive), and shall specify the terms of the order to be sought.

27 If counsel are unable to resolve their differences, they shall prepare and file a separate,  
28 sequentially numbered joint motion in limine for each issue in dispute which contains a clear



caption which identifies the moving party and the nature of the dispute (e.g., "Plaintiff's Motion in Limine No. 1 to Exclude the Testimony of Defendant's Expert"). Each joint motion in limine shall consist of one document signed by all counsel. The joint motion in limine shall contain a clear identification of the testimony, exhibits, or other specific matters alleged to be inadmissible and/or prejudicial and a statement of the specific prejudice that will be suffered by the moving party if the motion is not granted. The identification of the matters in dispute shall be followed by each party's contentions and each party's memorandum of points and authorities. The title page of the joint motion in limine must state the Pre-Trial Conference date, hearing date for the motions in limine, and trial date.

Each separately-represented party shall be limited to ten (10) pages, exclusive of tables of contents and authorities. Repetition shall be avoided and, as always, brevity is preferred. Leave for additional space will be given only in extraordinary cases. The excessive use of footnotes in an attempt to avoid the page limitation shall not be tolerated. All substantive material, other than brief argument on tangential issues, shall be in the body of the brief.

The moving party must provide its portion of the joint motion in limine to the nonmoving party, via e-mail, no later than nine (9) days before the deadline set forth below for filing motions in limine. The nonmoving party shall then provide the integrated joint motion in limine, along with any exhibits, to the moving party no later than two (2) days before the filing deadline. (The moving party may not make any further revisions to the joint motion in limine other than finalizing it for filing). The moving party shall be responsible for filing the joint motion in limine and preparing and filing any supporting exhibits.

The moving party may file a reply memorandum of points and authorities no later than the deadline set forth below. The reply memorandum shall not exceed five pages, unless otherwise ordered by the court.

A motion in limine made for the purpose of precluding the mention or display of inadmissible or prejudicial matter in the presence of the jury shall be accompanied by a declaration that includes the following: (A) a clear identification of the specific matter alleged to be inadmissible or prejudicial; (B) a representation to the court that the subject of the motion in limine has been

1 discussed with opposing counsel, and that opposing counsel has either indicated that such matter  
2 will be mentioned or displayed in the presence of the jury before it is admitted in evidence or that  
3 counsel has refused to stipulate that such matter will not be mentioned or displayed in the  
4 presence of the jury unless and until it is admitted in evidence; and (C) a statement of the specific  
5 prejudice that will be suffered by the moving party if the motion in limine is not granted.

6 The mandatory chambers copy of all evidence in support of or in opposition to a motion in  
7 limine, including declarations and exhibits to declarations, shall be submitted in a separately bound  
8 volume and shall include a Table of Contents. **The transcript of the meet and confer session**  
9 **shall be included as an exhibit to the motions in limine.** If the supporting evidence exceeds  
10 50 pages, then each copy of the supporting evidence shall be placed in a three-ring binder with  
11 each item of evidence separated by a tab divider on the right side, and shall include a label on the  
12 spine of the binder identifying its contents.

13 The court will not consider any motion in limine in the absence of a joint motion or a  
14 declaration from counsel for the moving party establishing that opposing counsel: (A) failed to  
15 confer in a timely manner; (B) failed to provide the opposing party's portion of the joint motion in  
16 a timely manner; or (C) refused to sign and return the joint motion after the opposing party's  
17 portion was added.

18 E. Jury Instructions and Special Verdict Forms.

19 1. No later than thirty-five days (35) days before the deadline to file the required  
20 jury instructions and verdict forms, the parties shall exchange their respective proposed jury  
21 instructions and verdict forms. No later than twenty-eight (28) days before the filing  
22 deadline, each party shall serve objections to the other party's instructions and verdict  
23 forms. No later than twenty-one (21) days before the deadline to file the required jury  
24 instructions and verdict forms, lead counsel for the parties shall meet and confer in person  
25 at an agreed-upon location within the Central District of California and attempt to come to  
26 agreement on the proposed jury instructions and verdict forms.

27 2. **No later than the deadline set forth below**, counsel shall submit both  
28 general and substantive jury instructions in the form described below. Counsel must

1 provide the documents described below in WordPerfect (the court's preference) or Word  
2 format. When the Ninth Circuit's Manual of Model Civil Jury Instructions provides an  
3 applicable jury instruction, the parties should submit the most recent version, modified and  
4 supplemented to fit the circumstances of this case. If there is no applicable Ninth Circuit  
5 jury instruction, counsel should consult the current edition of O'Malley, et al., Federal Jury  
6 Practice and Instructions. Where California law applies, counsel should use the current  
7 edition of the Judicial Council of California Civil Jury Instructions ("CACI"). Each requested  
8 instruction shall: (a) cite the authority or source of the instruction; (b) be set forth in full; (c)  
9 be on a separate page; (d) be numbered; (e) cover only one subject or principle of law; and  
10 (f) not repeat principles of law contained in any other requested instruction.

11 The proposed jury instructions shall be submitted as follows:

12 a. **Joint Jury Instructions:** Counsel shall file a **joint set of jury**  
13 **instructions** on which there is agreement. Jury instructions should be modified as  
14 necessary to fit the facts of the case, i.e., inserting names of defendant(s) or  
15 witness(es) to whom an instruction applies. Where language appears in brackets  
16 in the model instruction, counsel shall select the appropriate text and eliminate the  
17 inapplicable bracketed text. The court expects counsel to agree on the substantial  
18 majority of jury instructions, particularly when pattern or model instructions provide  
19 a statement of applicable law. If one party fails to comply with the provisions of this  
20 section, the other party must file a unilateral set of jury instructions.

21 b. **Disputed Jury Instructions:** Counsel shall file those instructions  
22 propounded by a party to which another party objects. On a separate page  
23 following each disputed jury instruction, the party opposing the instruction shall  
24 briefly state the basis for the objection, any authority in support thereof and, if  
25 applicable, an alternative instruction. On the following page, the party proposing the  
26 disputed instruction shall briefly state its response to the objection, and any authority  
27 in support of the instruction. Each requested jury instruction shall be numbered and  
28

set forth in full on a separate page, citing the authority or source of the requested instruction.

3. For both the Joint Jury Instructions and Disputed Jury Instructions, counsel must provide an index of all instructions submitted, which must include the following:

- a. the number of the instruction;
- b. the title of the instruction;
- c. the source of the instruction and any relevant case citations; and
- d. the page number of the instruction.

For example:

Number	Title	Source	Page Number
1	Trademark-Defined (15 U.S.C. § 1127)	9th Cir. 8.5.1	1

F. Voir Dire.

1. The court will conduct the voir dire. Counsel may, but are not required to, file and submit (electronically to the chambers's e-mail address and in paper form) a list of proposed case-specific voir dire questions at the time they lodge the proposed final pretrial conference order.

2. In most cases the court will conduct its initial voir dire of 14 prospective jurors who will be seated in the jury box. Generally the court will select eight jurors.

3. Each side will have three peremptory challenges. If 14 jurors are seated in the box and all six peremptory challenges are exercised, the remaining eight jurors will constitute the jury panel. If fewer than six peremptory challenges are exercised, the eight jurors in the lowest numbered seats will be the jury. The court will not necessarily accept a stipulation to a challenge for cause. If one or more challenges for cause are accepted, and all six peremptory challenges are exercised, the court may decide to proceed with six or seven jurors.

G. Trial Exhibits.

1           1. Exhibits must be placed in three-ring binders indexed by exhibit number with  
2 tabs or dividers on the right side. The spine portion of the binder shall indicate the volume  
3 number **and** contain an index of each exhibit included in the volume.

4           2. The court requires that the following be submitted to the Courtroom Deputy  
5 Clerk ("CRD") on the **first day of trial**.

6           a. **Four (4) copies** of each party's **witness list** in the order in which the  
7 witnesses may be called to testify.

8           b. **Four (4) copies** of the **Pretrial Exhibit Stipulation** in the form  
9 specified in this Order, which shall be sent in WordPerfect or Word format to the  
10 chambers's e-mail box **no later than noon on the day before trial**.

11           c. All of the exhibits (except those to be used for impeachment only), with  
12 official exhibit tags attached and bearing the same number shown on the exhibit list.  
13 Exhibit tags may be obtained from the Clerk's Office, located on the Main Street  
14 level of the courthouse at 312 North Spring Street. Exhibits shall be numbered 1,  
15 2, 3, etc., **not** 1.1, 1.2, etc. The defense exhibit numbers shall not duplicate  
16 plaintiff's numbers. If a "blow-up" is an enlargement of an existing exhibit, it shall be  
17 designated with the number of the original exhibit followed by an "A."

18           d. The three-ring binder of **original exhibits** with the court's exhibit tags,  
19 yellow tags for plaintiff and blue tags for defendant, stapled to the front of the exhibit  
20 at the upper right-hand corner with the case number, case name and exhibit number  
21 placed on each tag.

22           e. Two three-ring binders with a **copy** of each exhibit tabbed with exhibit  
23 numbers, as described above, for use by the court and the CRD.

24           f. A three-ring binder containing a copy of all exhibits for use by  
25 witnesses.

26           3. Admitted exhibits will be given to the jury during deliberations. Counsel shall  
27 review all admitted exhibits with the CRD before the jury retires to begin deliberations.  
28



4. Where a significant number of exhibits will be admitted, the court encourages counsel, preferably by agreement, to consider ways in which testimony about exhibits may be made intelligible to the jury while it is being presented. Counsel should consider such devices as overhead projectors, jury notebooks for admitted exhibits or enlargements of important exhibits. The court has an Elmo and other equipment available for use during trial. Information concerning training or the use of electronic equipment is available on the Central District's website. The court does not permit exhibits to be "published" by passing them up and down the jury box. Exhibits may be displayed briefly using the screens in the courtroom, unless the process becomes too time-consuming.

#### VI. JURY TRIAL.

##### A. Generally.

On the first day of trial, court will commence at 8:30 a.m. and conclude at approximately 4:30 p.m., with two 15-minute breaks and a one-hour lunch break. On the first day of trial, **counsel must appear at 8:15 a.m.** to discuss preliminary matters with the court. Trial days are Monday through Wednesday and Friday from 8:30 a.m. to approximately 4:30 p.m., with two 15-minute breaks and a one-hour lunch break.

On the first day of trial, the jury panel will be called when the court is satisfied that the matter is ready for trial. Jury selection usually takes only a few hours. Counsel should be prepared to proceed with opening statements and witness examination immediately after jury selection.

##### B. Advance Notice of Unusual or Difficult Issues.

If any counsel have reason to anticipate that a difficult question of law or evidence will necessitate legal argument requiring research or briefing, counsel must give the court advance notice. Counsel are directed to notify the CRD at the day's adjournment if an unexpected legal issue arises that could not have been foreseen and addressed by a motion in limine. See Fed. R. Evid. 103. Counsel must also advise the CRD at the end of each trial day of any issues that must be addressed outside the presence of the jury, so that there is no interruption of the trial.

**The court will not keep jurors waiting.**

Exh 2 Page 86

1 C. Opening Statements, Examining Witnesses and Summation.

- 2 1. Counsel must use the lectern at all times.
- 3 2. Counsel shall not discuss the law or argue the case in opening statements.
- 4 3. Counsel must not consume time by writing out words, drawing charts or
- 5 diagrams, etc. Counsel must prepare such materials in advance.
- 6 4. The court will honor (and may establish) reasonable time estimates for
- 7 opening and closing arguments, examination of witnesses, etc.

8 D. Objections to Questions.

- 9 1. Counsel must not use objections to make a speech, recapitulate testimony
- 10 or attempt to guide the witness.
- 11 2. Counsel must speak up when making an objection. The acoustics in the
- 12 courtroom make it difficult for all to hear an objection when it is being made.
- 13 3. When objecting, counsel must rise to state the objection and state only that
- 14 counsel objects and the legal ground of objection. If counsel wishes to argue an objection
- 15 further, counsel must ask for permission to do so.

16 E. General Decorum.

- 17 1. Counsel should not approach the CRD or the witness box, or enter the well
- 18 of the court, without specific permission and must return to the lectern when the purpose
- 19 for approaching has been accomplished.
- 20 2. Counsel should rise when addressing the court, and when the court or the
- 21 jury enters or leaves the courtroom, unless directed otherwise.
- 22 3. Counsel should address all remarks to the court. Counsel are not to address
- 23 the CRD, the court reporter, persons in the audience or opposing counsel. If counsel wish
- 24 to speak with opposing counsel, counsel must ask permission to do so. Any request for
- 25 the re-reading of questions or answers or to have an exhibit placed in front of a witness
- 26 shall be addressed to the court.
- 27 4. Counsel should not address or refer to witnesses or parties by first names
- 28 alone, with the exception of witnesses under 14 years of age.



1           5. Counsel must not offer a stipulation unless counsel have conferred with  
2 opposing counsel and have verified that the stipulation will be acceptable.

3           6. While court is in session, counsel must not leave the counsel table to confer  
4 with any person in the back of the courtroom unless permission has been granted in  
5 advance.

6           7. Counsel shall not make facial expressions; nod or shake their heads;  
7 comment or otherwise exhibit in any way any agreement, disagreement or other opinion  
8 or belief concerning the testimony of a witness. Counsel shall admonish their clients and  
9 witnesses not to engage in such conduct.

10           8. Counsel should not talk to jurors at all, and should not talk to co-counsel,  
11 opposing counsel, witnesses or clients where the conversation can be overheard by jurors.  
12 Each counsel should admonish counsel's own clients and witnesses to avoid such conduct.

13           9. Where a party has more than one lawyer, only one may conduct the direct  
14 or cross-examination of a particular witness, or make objections as to that witness.

15           10. Water is permitted in the courtroom. Food is not permitted in the courtroom.

16 F. Promptness of Counsel and Witnesses.

17           1. Promptness is expected from counsel and witnesses. Once counsel are  
18 engaged in trial, this trial is counsel's first priority. The court will not delay the trial or  
19 inconvenience jurors.

20           2. If a witness was on the stand at a recess or adjournment, counsel who called  
21 the witness shall ensure the witness is back on the stand and ready to proceed when trial  
22 resumes.

23           3. Counsel must notify the CRD in advance if any witness should be  
24 accommodated based on a disability or for other reasons.

25           4. No presenting party may be without a witness. If a party's remaining  
26 witnesses are not immediately available and there is more than a brief delay, the court may  
27 deem that party to have rested.  
28

1           5.       The court attempts to cooperate with professional witnesses and will, except  
2       in extraordinary circumstances, accommodate them by permitting them to be called out of  
3       sequence. Counsel must anticipate any such possibility and discuss it with opposing  
4       counsel. If there is an objection, counsel must confer with the court in advance.

5       G.   Exhibits.

6           1.       Each counsel should keep counsel's own list of exhibits and should note  
7       when each exhibit has been admitted into evidence (if not already admitted pursuant to the  
8       pretrial exhibit stipulation).

9           2.       Each counsel is responsible for any exhibits that counsel secures from the  
10      CRD and must return them before leaving the courtroom at the end of the session.

11          3.       An exhibit not previously marked should, at the time of its first mention, be  
12      accompanied by a request that it be marked for identification. Counsel must show a new  
13      exhibit to opposing counsel before the court session in which it is mentioned.

14          4.       Counsel are to advise the CRD of any agreements with respect to the  
15      proposed exhibits and as to those exhibits that may be received without further motion to  
16      admit.

17          5.       When referring to an exhibit, counsel should refer to its exhibit number.  
18      Witnesses should be asked to do the same.

19          6.       Counsel must neither ask witnesses to draw charts or diagrams nor ask the  
20      court's permission for a witness to do so. Any graphic aids must be fully prepared before  
21      the court session starts.

22      H.   Depositions.

23          1.       All depositions to be used at trial, either as evidence or for impeachment,  
24      must be lodged with the CRD **on the first day of trial or such earlier date as the court**  
25      **may order.** Counsel should verify with the CRD that the relevant deposition is in the  
26      CRD's possession.

27          2.       In using depositions of an adverse party for impeachment, either one of the  
28      following procedures may be adopted:

1 a. If counsel wishes to read the questions and answers as alleged  
2 impeachment and ask the witness no further questions on that subject, counsel shall  
3 first state the page and line where the reading begins and the page and line where  
4 the reading ends, and allow time for any objection. Counsel may then read the  
5 portions of the deposition into the record.

6 b. If counsel wishes to ask the witness further questions on the subject  
7 matter, the deposition shall be placed in front of the witness and the witness shall  
8 be told to read the relevant pages and lines silently. Then counsel may: (a) ask the  
9 witness further questions on the matter and thereafter read the quotations; or (b)  
10 read the quotations and thereafter ask further questions. Counsel should have an  
11 extra copy of the deposition for this purpose.

12 3. Where a witness is absent and the witness's testimony is offered by  
13 deposition, counsel may: (a) have a reader occupy the witness chair and read the  
14 testimony of the witness while the examining lawyer asks the questions; or (b) have  
15 counsel read both the questions and answers.

16 I. Interrogatories and Requests for Admissions.

17 Whenever counsel expects to offer a group of answers to interrogatories or requests for  
18 admissions extracted from one or more lengthy documents, counsel must prepare a new  
19 document listing each question and answer and identifying the document from which it has been  
20 extracted. Copies of this new document should be given to the court and opposing counsel.

21 VII. COMPLIANCE WITH THIS ORDER, THE LOCAL RULES AND THE FEDERAL RULES  
22 OF CIVIL PROCEDURE.

23 All parties and their counsel are ordered to become familiar with the Federal Rules of Civil  
24 Procedure, the Local Rules of the Central District of California and the court's standing orders. The  
25 failure of any party or attorney to comply with the requirements of this Order, the Local Rules or  
26 the Federal Rules of Civil Procedure may result in sanctions being imposed.

27 ///

28 ///

Povilas Karcauskas v. Regreso Financial Services LLC, et al.  
Case No. CV 15-9225 FMO (RAOx)

CASE DEADLINES

The court hereby enters the following scheduling order:

1. Any stipulation or motion to amend as to any claims, defenses and/or parties shall be lodged/filed no later than **May 6, 2016**, failing which it shall be deemed that party's waiver of any such amendments in this action. All "Doe" defendants are to be identified and named on or before **May 6, 2016**, on which date all remaining "Doe" defendants will be dismissed, unless otherwise ordered by the court upon a showing of good cause.

2. All fact discovery shall be completed no later than **September 7, 2016**.

3. All expert discovery shall be completed by **November 21, 2016**. The parties must serve their Initial Expert Witness Disclosures no later than **September 21, 2016**. Rebuttal Expert Witness Disclosures shall be served no later than **October 21, 2016**. The parties should commence expert discovery shortly after the initial designation of experts, because Local Rules 7-3 and 37-1 require ample time to meet and confer as well as brief the matters, and because the final pretrial conference and trial dates will not be continued merely because expert discovery is still underway.

4. The parties shall complete their settlement conference before a mediator from the court's ADR Panel no later than **September 7, 2016**. Plaintiff's counsel shall contact the settlement officer, with enough time so that the settlement conference date is early enough to comply with the settlement completion deadline imposed by this court. After obtaining available dates from the settlement officer, counsel for the parties shall confer with each other and select one of the proposed dates. Plaintiff's counsel shall then advise the settlement officer of the settlement conference date selected by parties. If the case settles, counsel shall file a Notice of Settlement no later than 24 hours after the case is settled, stating when they expect to file their dismissal papers. Otherwise, **the parties must, no later than 48 hours after the settlement proceeding is completed, file a Status Report Re: Settlement**. The Status Report shall not disclose the parties' settlement positions, i.e., the terms of any offers or demands. The Status Report shall

Exh 2 Page 91

1 describe the efforts made by the parties to resolve the dispute informally, i.e., the occasions and  
2 dates when the parties participated in mediation or settlement conferences. The Status Report  
3 shall also include the name of the Settlement Officer who assisted the parties with their settlement  
4 conference.

5 5. Any motion for summary judgment and/or other potentially dispositive motion shall be  
6 filed no later than **December 21, 2016**, and noticed for hearing regularly under the Local Rules.  
7 Any untimely or non-conforming motion will be denied. *All potentially dispositive motions shall*  
8 *comply with the requirements set forth in the Court's Order Re: Summary Judgment Motions*  
9 *issued contemporaneously with the filing of this Order.* Each party is allowed one potentially  
10 dispositive motion.

11 6. Counsel for the parties shall file a memorandum of contentions of fact and law; witness  
12 lists; their Pretrial Exhibit Stipulation; and joint motions in limine no later than **February 10, 2017**.

13 7. Counsel for the parties shall lodge their proposed Pretrial Conference Order and file the  
14 Joint Jury Instructions; Disputed Jury Instructions; a joint proposed verdict form; a joint statement  
15 of the case; proposed additional voir dire questions, if desired; and reply memoranda to motions  
16 in limine no later than **February 17, 2017**.

17 Counsel for the parties shall also send to the chambers's e-mail address  
18 (fmo\_chambers@cacd.uscourts.gov) a copy of the proposed Pretrial Conference Order; Joint Jury  
19 Instructions; Disputed Jury Instructions; the joint proposed verdict form; the joint statement of the  
20 case; and any proposed additional voir dire questions, in either WordPerfect (the court's  
21 preference) or Word format.

22 8. The final pretrial conference and hearing on motions in limine is scheduled for **March**  
23 **3, 2017**, at 10:00 a.m.

24 9. Counsel for the parties shall file trial briefs not to exceed 15 pages no later than **March**  
25 **14, 2017**.

10. The trial is scheduled to begin on **March 21, 2017**, at 8:30 a.m. On the first day of trial, **counsel must appear at 8:15 a.m.** to discuss preliminary matters with the court.

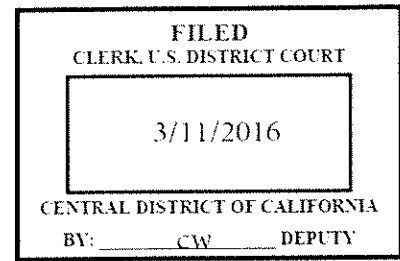
Dated this 7th day of March, 2016.

/s/  
Fernando M. Olguin  
United States District Judge

**Exhibit 8**

Exh 2 Page 94





UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

POVILAS KARCAUSKAS, on behalf of  
himself and all others similarly situated,

Plaintiff,

v.

REGRESO FINANCIAL SERVICES LLC,  
et al.

Defendants.

Case No. CV 15-9225 FMO (RAOx)

**AMENDED SCHEDULING AND CASE  
MANAGEMENT ORDER**

**PLEASE READ THIS ORDER CAREFULLY. IT GOVERNS THIS CASE AND DIFFERS  
IN SOME RESPECTS FROM THE LOCAL RULES.**

**The term "Counsel," as used in this Order, includes parties appearing pro se.**

The court has scheduled the dates set forth on the last two pages of this Order after review of the parties' Joint Rule 26(f) Report.<sup>1</sup> The dates and requirements set forth in this Order are firm. The court is unlikely to grant continuances, even if stipulated by the parties, unless the parties establish good cause through a proper showing.

In an effort to comply with Fed. R. Civ. P. 1's mandate "to secure the just, speedy, and inexpensive determination of every action[.]" the court **orders** as follows.

**I. JOINDER OF PARTIES/AMENDMENT OF PLEADINGS.**

Any stipulation or motion to amend as to any claims, defenses and/or parties shall be lodged/filed by the deadline set forth in the attached schedule, failing which it shall be deemed that

<sup>1</sup> The Court's Order of March 7, 2016, is hereby vacated.

1 the party has waived any such amendments. All unserved parties not timely served shall be  
2 dismissed without prejudice. In addition, all "Doe" defendants are to be identified and named on  
3 or before the date set forth below, on which date all remaining "Doe" defendants will be dismissed,  
4 unless otherwise ordered by the court upon a showing of good cause.

5 II. DISCOVERY.

6 A. Generally.

7 Discovery is governed by the Federal Rules of Civil Procedure and applicable Local Rules  
8 of the Central District of California. Pro se litigants are entitled to discovery to the same extent as  
9 are litigants represented by counsel. The court allows discovery to commence as soon as the first  
10 answer or motion to dismiss is filed. The court does not bifurcate discovery. The parties should  
11 note that absent exceptional circumstances, **discovery shall not be stayed** while any motion is  
12 pending, including any motion to dismiss or motion for protective order. **The parties are directed**  
13 **to conduct any necessary discovery as soon as possible, as the court is not inclined to**  
14 **grant any extensions of the discovery or other case-related deadlines.**

15 Counsel are expected to comply with the Federal Rules of Civil Procedure and all Local  
16 Rules concerning discovery. Whenever possible, the court expects counsel to resolve discovery  
17 disputes among themselves in a courteous, reasonable and professional manner. The court  
18 expects that counsel will adhere strictly to the Civility and Professionalism Guidelines (which can  
19 be found on the Central District's website under Information for Attorneys>Attorney Admissions).

20 B. Discovery Cut-Off.

21 The court has established a cut-off date for discovery, including expert discovery, if  
22 applicable. This is not the date by which discovery requests must be served; it is the date by  
23 which all discovery, **including all hearings on any related motions**, is to be completed.

24 C. Discovery Motions.

25 Any motion relating to a deposition and/or challenging the adequacy of discovery responses  
26 must be filed, served and calendared sufficiently in advance of the discovery cut-off date to permit  
27 the responses to be obtained and/or the deposition to be completed before the discovery cut-off  
28 if the motion is granted. Given the requirements set forth in the Local Rules (e.g., "meet and

confer” and preparation of the Joint Stipulation), any party seeking to file a discovery motion must usually initiate meet and confer discussions at least seven (7) weeks before the discovery cut-off, i.e., the moving party’s counsel must initiate the meet and confer process by preparing and serving the letter required by Local Rule 37-1.

D. Expert Discovery.

All disclosures must be made in writing. The parties should begin expert discovery shortly after the initial designation of experts. The final pretrial conference and trial dates will not be continued because expert discovery is not completed. Failure to comply with these or any other orders concerning expert discovery may result in the expert being excluded as a witness.

III. MOTIONS.

The court has established a cut-off date for the filing and service of motions for the court’s law and motion calendar. Counsel should consult the court’s Standing Order, located on the Central District’s website, to determine the court’s requirements concerning motions and other matters. If documentary evidence in support of or in opposition to a motion exceeds 50 pages, the evidence must be separately bound and tabbed and include an index. If such evidence exceeds **300 pages**, the documents shall be placed in a **binder**, with an index and with each item of evidence separated by a tab divider on the right side. Counsel shall ensure that all documents are legible. Counsel are strongly encouraged to cite to Docket numbers (and sub-numbers) when citing to the record.

Counsel should also consult the Central District’s website at [www.cacd.uscourts.gov](http://www.cacd.uscourts.gov)>Judges’ Requirements>Judges’ Procedures and Schedules>Hon. Fernando M. Olguin for further information regarding motion procedures.

IV. SETTLEMENT.

Pursuant to Local Rule 16-15, the parties must complete a settlement conference. **No case will proceed to trial unless all parties, including the principals of all corporate parties, have appeared personally at a settlement conference.**

If the case settles, counsel shall file a Notice of Settlement no later than 24 hours after the case is settled, stating when they expect to file their dismissal papers. If the parties wish to

1 dismiss class allegations prior to class certification, the parties must address in their Notice of  
2 Settlement whether there is (1) potential prejudice to the class; or (2) evidence of a collusive  
3 settlement agreement. See Diaz v. Trust Territory of Pac. Islands, 876 F.2d 1041, 1047 n. 3 (9th  
4 Cir. 1989). Otherwise, **the parties must, no later than 48 hours after the settlement**  
5 **proceeding is completed, file a Status Report Re: Settlement.** The Status Report shall not  
6 disclose the parties' settlement positions, i.e., the terms of any offers or demands. The Status  
7 Report shall describe the efforts made by the parties to resolve the dispute, i.e., the occasions and  
8 dates when the parties participated in mediation or settlement conferences. The Status Report  
9 shall also include the name of the Settlement Officer who assisted the parties with their settlement  
10 conference.

11 V. TRIAL PREPARATION.

12 A. Final Pretrial Conference.

13 Unless excused for good cause, each party appearing in this action shall be represented  
14 at the final pretrial conference by the attorney who is to serve as lead trial counsel. Counsel must  
15 be prepared to discuss streamlining the trial, including presentation of testimony by deposition  
16 excerpts or summaries, time limits, stipulations as to undisputed facts and qualification of experts  
17 by admitted resumes.

18 B. Pretrial Documents.

19 The filing schedule for pretrial documents is set forth on the last few pages of this Order.  
20 **Unless otherwise indicated, compliance with Local Rule 16 is required. The court does not**  
21 **exempt pro se parties from the requirements of this Order or Local Rule 16.** Carefully  
22 prepared memoranda of contentions of fact and law, witness lists, a pretrial exhibit stipulation and  
23 a proposed pretrial conference order shall be submitted in accordance with the Local Rules. All  
24 pretrial document copies shall be delivered to the court "binder-ready" (three-hole punched on the  
25 left side, without blue-backs and stapled only in the top left corner). Failure to comply with these  
26 requirements may result in the pretrial conference being taken off-calendar or continued, or in  
27 other sanctions.  
28

1. **Witness Lists.**

In addition to the requirements of Local Rule 16-5, the witness lists must include a brief description (one or two paragraphs) of the testimony and a time estimate for both direct and cross-examination (separately stated).

2. **Pretrial Exhibit Stipulation.<sup>2</sup>**

**No later than 21 days before the final pretrial conference**, counsel shall conduct a good faith meet and confer in person and prepare a Pretrial Exhibit Stipulation. The Pretrial Exhibit Stipulation shall contain each party's numbered list of trial exhibits, with objections, if any, to each exhibit, including the basis of the objection and the offering party's brief response. All exhibits to which there is no objection shall be deemed admitted. The parties shall stipulate to the authenticity and foundation of exhibits whenever possible, and the Pretrial Exhibit Stipulation shall identify any exhibits to which authenticity or foundation have not been stipulated and the specific reasons for the parties' failure to stipulate.

The Pretrial Exhibit Stipulation shall be substantially in the following form:

**Pretrial Exhibit Stipulation**

**Plaintiff(s)/Defendant(s)' Exhibits**

<b><u>Exhibit No.</u></b>	<b><u>Description</u></b>	<b><u>Stip. to Adm.<sup>3</sup></u></b>	<b><u>Objection</u></b>	<b><u>Response to Objection</u></b>
---------------------------	---------------------------	---	-------------------------	-------------------------------------

Failure to comply with this paragraph may be deemed a waiver of all objections. **Do not submit** blanket or boilerplate objections to the opposing party's exhibits. These will be disregarded and overruled.

3. **Proposed Pretrial Conference Order.**

The format of the proposed final pretrial conference order shall conform to the format set forth in Appendix A to the Local Rules. In drafting the proposed pretrial conference order, the

<sup>2</sup> It is not necessary to file the Joint Exhibit List required by Local Rule 16-6.1.

<sup>3</sup> The Pretrial Exhibit Stipulation shall indicate in this column whether an exhibit is admitted for identification purposes only.

1 parties shall attempt to agree on and set forth as many non-contested facts as possible. The court  
2 will usually read the uncontested facts to the jury at the start of trial. A carefully drafted and  
3 comprehensively stated stipulation of facts will reduce the length of trial and increase jury  
4 understanding of the case.

5 C. Joint Statement of the Case.

6 **At the time the proposed final pretrial conference order is lodged with the court,**  
7 counsel shall file an objective, non-argumentative statement of the case, which the court shall read  
8 to all prospective jurors at the beginning of voir dire. The statement should not exceed one page.

9 D. Motions In Limine.

10 Each party is allowed a maximum of five motions in limine, which must be filed no later than  
11 the deadline set forth below. In the event a party believes that more than five motions in limine  
12 are necessary, the party must obtain leave of court to file additional motions in limine. The court  
13 will not hear or resolve motions in limine that are disguised summary judgment motions.

14 Before filing any motion in limine, counsel for the parties shall confer in a good faith effort  
15 to eliminate the necessity for the filing of the motion in limine or to eliminate as many of the  
16 disputes as possible. It shall be the responsibility of counsel for the moving party to arrange for  
17 this conference. The conference shall take place in person, with a court reporter present, within  
18 seven (7) calendar days of service upon opposing counsel of a letter requesting such conference,  
19 but in no event later than fourteen (14) days before the deadline for filing motions in limine. Unless  
20 counsel agree otherwise, the conference shall take place at the office of counsel for the moving  
21 party. The moving party's letter shall identify the testimony, exhibits, or other specific matters  
22 alleged to be inadmissible and/or prejudicial, shall state thoroughly with respect to each such  
23 matter the moving party's position (and provide any legal authority which the moving party believes  
24 is dispositive), and shall specify the terms of the order to be sought.

25 If counsel are unable to resolve their differences, they shall prepare and file a separate,  
26 sequentially numbered joint motion in limine for each issue in dispute which contains a clear  
27 caption which identifies the moving party and the nature of the dispute (e.g., "Plaintiff's Motion in  
28 Limine No. 1 to Exclude the Testimony of Defendant's Expert"). Each joint motion in limine shall



1 consist of one document signed by all counsel. The joint motion in limine shall contain a clear  
2 identification of the testimony, exhibits, or other specific matters alleged to be inadmissible and/or  
3 prejudicial and a statement of the specific prejudice that will be suffered by the moving party if the  
4 motion is not granted. The identification of the matters in dispute shall be followed by each party's  
5 contentions and each party's memorandum of points and authorities. The title page of the joint  
6 motion in limine must state the Pre-Trial Conference date, hearing date for the motions in limine,  
7 and trial date.

8 Each separately-represented party shall be limited to ten (10) pages, exclusive of tables  
9 of contents and authorities. Repetition shall be avoided and, as always, brevity is preferred.  
10 Leave for additional space will be given only in extraordinary cases. The excessive use of  
11 footnotes in an attempt to avoid the page limitation shall not be tolerated. All substantive material,  
12 other than brief argument on tangential issues, shall be in the body of the brief.

13 The moving party must provide its portion of the joint motion in limine to the nonmoving  
14 party, via e-mail, no later than nine (9) days before the deadline set forth below for filing motions  
15 in limine. The nonmoving party shall then provide the integrated joint motion in limine, along with  
16 any exhibits, to the moving party no later than two (2) days before the filing deadline. (The moving  
17 party may not make any further revisions to the joint motion in limine other than finalizing it for  
18 filing). The moving party shall be responsible for filing the joint motion in limine and preparing and  
19 filing any supporting exhibits.

20 The moving party may file a reply memorandum of points and authorities no later than the  
21 deadline set forth below. The reply memorandum shall not exceed five pages, unless otherwise  
22 ordered by the court.

23 A motion in limine made for the purpose of precluding the mention or display of inadmissible  
24 or prejudicial matter in the presence of the jury shall be accompanied by a declaration that  
25 includes the following: (A) a clear identification of the specific matter alleged to be inadmissible  
26 or prejudicial; (B) a representation to the court that the subject of the motion in limine has been  
27 discussed with opposing counsel, and that opposing counsel has either indicated that such matter  
28 will be mentioned or displayed in the presence of the jury before it is admitted in evidence or that



1 counsel has refused to stipulate that such matter will not be mentioned or displayed in the  
2 presence of the jury unless and until it is admitted in evidence; and (C) a statement of the specific  
3 prejudice that will be suffered by the moving party if the motion in limine is not granted.

4 The mandatory chambers copy of all evidence in support of or in opposition to a motion in  
5 limine, including declarations and exhibits to declarations, shall be submitted in a separately bound  
6 volume and shall include a Table of Contents. **The transcript of the meet and confer session**  
7 **shall be included as an exhibit to the motions in limine.** If the supporting evidence exceeds  
8 50 pages, then each copy of the supporting evidence shall be placed in a slant D-ring binder with  
9 each item of evidence separated by a tab divider on the right side, and shall include a label on the  
10 spine of the binder identifying its contents.

11 The court will not consider any motion in limine in the absence of a joint motion or a  
12 declaration from counsel for the moving party establishing that opposing counsel: (A) failed to  
13 confer in a timely manner; (B) failed to provide the opposing party's portion of the joint motion in  
14 a timely manner; or (C) refused to sign and return the joint motion after the opposing party's  
15 portion was added.

16 E. Jury Instructions and Special Verdict Forms.

17 1. No later than thirty-five days (35) days before the deadline to file the required  
18 jury instructions and verdict forms, the parties shall exchange their respective proposed jury  
19 instructions and verdict forms. No later than thirty-one (31) days before the filing deadline,  
20 each party shall serve objections to the other party's instructions and verdict forms. No  
21 later than twenty-one (21) days before the deadline to file the required jury instructions and  
22 verdict forms, lead counsel for the parties shall meet and confer in person at an agreed-  
23 upon location within the Central District of California and attempt to come to agreement on  
24 the proposed jury instructions and verdict forms.

25 2. **No later than the deadline set forth below**, counsel shall submit both  
26 general and substantive jury instructions in the form described below. Counsel must  
27 provide the documents described below in WordPerfect (the court's preference) or Word  
28 format. When the Ninth Circuit's Manual of Model Civil Jury Instructions provides an

1 applicable jury instruction, the parties should submit the most recent version, modified and  
2 supplemented to fit the circumstances of this case. If there is no applicable Ninth Circuit  
3 jury instruction, counsel should consult the current edition of O'Malley, et al., Federal Jury  
4 Practice and Instructions. Where California law applies, counsel should use the current  
5 edition of the Judicial Council of California Civil Jury Instructions ("CACI"). Each requested  
6 instruction shall: (a) cite the authority or source of the instruction; (b) be set forth in full; (c)  
7 be on a separate page; (d) be numbered; (e) cover only one subject or principle of law; and  
8 (f) not repeat principles of law contained in any other requested instruction.

9 The proposed jury instructions shall be submitted as follows:

10 a. **Joint Jury Instructions:** Counsel shall file a **joint set of jury**  
11 **instructions** on which there is agreement. Jury instructions should be modified as  
12 necessary to fit the facts of the case, i.e., inserting names of defendant(s) or  
13 witness(es) to whom an instruction applies. Where language appears in brackets  
14 in the model instruction, counsel shall select the appropriate text and eliminate the  
15 inapplicable bracketed text. The court expects counsel to agree on the substantial  
16 majority of jury instructions, particularly when pattern or model instructions provide  
17 a statement of applicable law. If one party fails to comply with the provisions of this  
18 section, the other party must file a unilateral set of jury instructions.

19 b. **Disputed Jury Instructions:** Counsel shall file those instructions  
20 propounded by a party to which another party objects. On a separate page  
21 following each disputed jury instruction, the party opposing the instruction shall  
22 briefly state the basis for the objection, any authority in support thereof and, if  
23 applicable, an alternative instruction. On the following page, the party proposing the  
24 disputed instruction shall briefly state its response to the objection, and any authority  
25 in support of the instruction. Each requested jury instruction shall be numbered and  
26 set forth in full on a separate page, citing the authority or source of the requested  
27 instruction.  
28

3. For both the Joint Jury Instructions and Disputed Jury Instructions, counsel must provide an index of all instructions submitted, which must include the following:

- a. the number of the instruction;
- b. the title of the instruction;
- c. the source of the instruction and any relevant case citations; and
- d. the page number of the instruction.

For example:

Number	Title	Source	Page Number
1	Trademark-Defined (15 U.S.C. § 1127)	9th Cir. 8.5.1	1

F. Voir Dire.

1. The court will conduct the voir dire. Counsel may, but are not required to, file and submit (electronically to the chambers's e-mail address and in paper form) a list of proposed case-specific voir dire questions at the time they lodge the proposed final pretrial conference order.

2. In most cases the court will conduct its initial voir dire of 14 prospective jurors who will be seated in the jury box. Generally the court will select eight jurors.

3. Each side will have three peremptory challenges. If 14 jurors are seated in the box and all six peremptory challenges are exercised, the remaining eight jurors will constitute the jury panel. If fewer than six peremptory challenges are exercised, the eight jurors in the lowest numbered seats will be the jury. The court will not necessarily accept a stipulation to a challenge for cause. If one or more challenges for cause are accepted, and all six peremptory challenges are exercised, the court may decide to proceed with six or seven jurors.

G. Trial Exhibits.

1           1. Exhibits must be placed in three-ring binders indexed by exhibit number with  
2 tabs or dividers on the right side. The spine portion of the binder shall indicate the volume  
3 number **and** contain an index of each exhibit included in the volume.

4           2. The court requires that the following be submitted to the Courtroom Deputy  
5 Clerk ("CRD") on the **first day of trial**.

6           a. **Four (4) copies** of each party's **witness list** in the order in which the  
7 witnesses may be called to testify.

8           b. **Four (4) copies** of the **Pretrial Exhibit Stipulation** in the form  
9 specified in this Order, which shall be sent in WordPerfect or Word format to the  
10 chambers's e-mail box **no later than noon on the day before trial**.

11           c. All of the exhibits (except those to be used for impeachment only), with  
12 official exhibit tags attached and bearing the same number shown on the exhibit list.  
13 Exhibit tags may be obtained from the Clerk's Office, located on the Main Street  
14 level of the courthouse at 312 North Spring Street. Exhibits shall be numbered 1,  
15 2, 3, etc., **not** 1.1, 1.2, etc. The defense exhibit numbers shall not duplicate  
16 plaintiff's numbers. If a "blow-up" is an enlargement of an existing exhibit, it shall be  
17 designated with the number of the original exhibit followed by an "A."

18           d. The binder of **original exhibits** with the court's exhibit tags, yellow  
19 tags for plaintiff and blue tags for defendant, stapled to the front of the exhibit at the  
20 upper right-hand corner with the case number, case name and exhibit number  
21 placed on each tag.

22           e. Two binders with a **copy** of each exhibit tabbed with exhibit numbers,  
23 as described above, for use by the court and the CRD.

24           f. A three-ring binder containing a copy of all exhibits for use by  
25 witnesses.

26           3. Admitted exhibits will be given to the jury during deliberations. Counsel shall  
27 review all admitted exhibits with the CRD before the jury retires to begin deliberations.  
28

4. Where a significant number of exhibits will be admitted, the court encourages counsel, preferably by agreement, to consider ways in which testimony about exhibits may be made intelligible to the jury while it is being presented. Counsel should consider such devices as overhead projectors, jury notebooks for admitted exhibits or enlargements of important exhibits. The court has an Elmo and other equipment available for use during trial. Information concerning training or the use of electronic equipment is available on the Central District's website. The court does not permit exhibits to be "published" by passing them up and down the jury box. Exhibits may be displayed briefly using the screens in the courtroom, unless the process becomes too time-consuming.

VI. JURY TRIAL.

A. Generally.

On the first day of trial, court will commence at 8:30 a.m. and conclude at approximately 4:30 p.m., with two 15-minute breaks and a one-hour lunch break. On the first day of trial, **counsel must appear at 8:15 a.m.** to discuss preliminary matters with the court. Trial days are Monday through Wednesday and Friday from 8:30 a.m. to approximately 4:30 p.m., with two 15-minute breaks and a one-hour lunch break.

On the first day of trial, the jury panel will be called when the court is satisfied that the matter is ready for trial. Jury selection usually takes only a few hours. Counsel should be prepared to proceed with opening statements and witness examination immediately after jury selection.

B. Advance Notice of Unusual or Difficult Issues.

If any counsel have reason to anticipate that a difficult question of law or evidence will necessitate legal argument requiring research or briefing, counsel must give the court advance notice. Counsel are directed to notify the CRD at the day's adjournment if an unexpected legal issue arises that could not have been foreseen and addressed by a motion in limine. See Fed. R. Evid. 103. Counsel must also advise the CRD at the end of each trial day of any issues that must be addressed outside the presence of the jury, so that there is no interruption of the trial.

**The court will not keep jurors waiting.**

Exh 2 Page 106

C. Opening Statements, Examining Witnesses and Summation.

1. Counsel must use the lectern at all times.
2. Counsel shall not discuss the law or argue the case in opening statements.
3. Counsel must not consume time by writing out words, drawing charts or diagrams, etc. Counsel must prepare such materials in advance.
4. The court will honor (and may establish) reasonable time estimates for opening and closing arguments, examination of witnesses, etc.

D. Objections to Questions.

1. Counsel must not use objections to make a speech, recapitulate testimony or attempt to guide the witness.
2. Counsel must speak up when making an objection. The acoustics in the courtroom make it difficult for all to hear an objection when it is being made.
3. When objecting, counsel must rise to state the objection and state only that counsel objects and the legal ground of objection. If counsel wishes to argue an objection further, counsel must ask for permission to do so.

E. General Decorum.

1. Counsel should not approach the CRD or the witness box, or enter the well of the court, without specific permission and must return to the lectern when the purpose for approaching has been accomplished.
2. Counsel should rise when addressing the court, and when the court or the jury enters or leaves the courtroom, unless directed otherwise.
3. Counsel should address all remarks to the court. Counsel are not to address the CRD, the court reporter, persons in the audience or opposing counsel. If counsel wish to speak with opposing counsel, counsel must ask permission to do so. Any request for the re-reading of questions or answers or to have an exhibit placed in front of a witness shall be addressed to the court.
4. Counsel should not address or refer to witnesses or parties by first names alone, with the exception of witnesses under 14 years of age.



1           5. Counsel must not offer a stipulation unless counsel have conferred with  
2 opposing counsel and have verified that the stipulation will be acceptable.

3           6. While court is in session, counsel must not leave the counsel table to confer  
4 with any person in the back of the courtroom unless permission has been granted in  
5 advance.

6           7. Counsel shall not make facial expressions; nod or shake their heads;  
7 comment or otherwise exhibit in any way any agreement, disagreement or other opinion  
8 or belief concerning the testimony of a witness. Counsel shall admonish their clients and  
9 witnesses not to engage in such conduct.

10           8. Counsel should not talk to jurors at all, and should not talk to co-counsel,  
11 opposing counsel, witnesses or clients where the conversation can be overheard by jurors.  
12 Each counsel should admonish counsel's own clients and witnesses to avoid such conduct.

13           9. Where a party has more than one lawyer, only one may conduct the direct  
14 or cross-examination of a particular witness, or make objections as to that witness.

15           10. Water is permitted in the courtroom. Food is not permitted in the courtroom.

16 F. Promptness of Counsel and Witnesses.

17           1. Promptness is expected from counsel and witnesses. Once counsel are  
18 engaged in trial, this trial is counsel's first priority. The court will not delay the trial or  
19 inconvenience jurors.

20           2. If a witness was on the stand at a recess or adjournment, counsel who called  
21 the witness shall ensure the witness is back on the stand and ready to proceed when trial  
22 resumes.

23           3. Counsel must notify the CRD in advance if any witness should be  
24 accommodated based on a disability or for other reasons.

25           4. No presenting party may be without a witness. If a party's remaining  
26 witnesses are not immediately available and there is more than a brief delay, the court may  
27 deem that party to have rested.  
28



1           5. The court attempts to cooperate with professional witnesses and will, except  
2 in extraordinary circumstances, accommodate them by permitting them to be called out of  
3 sequence. Counsel must anticipate any such possibility and discuss it with opposing  
4 counsel. If there is an objection, counsel must confer with the court in advance.

5 G. Exhibits.

6           1. Each counsel should keep counsel's own list of exhibits and should note  
7 when each exhibit has been admitted into evidence (if not already admitted pursuant to the  
8 pretrial exhibit stipulation).

9           2. Each counsel is responsible for any exhibits that counsel secures from the  
10 CRD and must return them before leaving the courtroom at the end of the session.

11           3. An exhibit not previously marked should, at the time of its first mention, be  
12 accompanied by a request that it be marked for identification. Counsel must show a new  
13 exhibit to opposing counsel before the court session in which it is mentioned.

14           4. Counsel are to advise the CRD of any agreements with respect to the  
15 proposed exhibits and as to those exhibits that may be received without further motion to  
16 admit.

17           5. When referring to an exhibit, counsel should refer to its exhibit number.  
18 Witnesses should be asked to do the same.

19           6. Counsel must neither ask witnesses to draw charts or diagrams nor ask the  
20 court's permission for a witness to do so. Any graphic aids must be fully prepared before  
21 the court session starts.

22 H. Depositions.

23           1. All depositions to be used at trial, either as evidence or for impeachment,  
24 must be lodged with the CRD **on the first day of trial or such earlier date as the court**  
25 **may order.** Counsel should verify with the CRD that the relevant deposition is in the  
26 CRD's possession.

27           2. In using depositions of an adverse party for impeachment, either one of the  
28 following procedures may be adopted:

1 a. If counsel wishes to read the questions and answers as alleged  
2 impeachment and ask the witness no further questions on that subject, counsel shall  
3 first state the page and line where the reading begins and the page and line where  
4 the reading ends, and allow time for any objection. Counsel may then read the  
5 portions of the deposition into the record.

6 b. If counsel wishes to ask the witness further questions on the subject  
7 matter, the deposition shall be placed in front of the witness and the witness shall  
8 be told to read the relevant pages and lines silently. Then counsel may: (a) ask the  
9 witness further questions on the matter and thereafter read the quotations; or (b)  
10 read the quotations and thereafter ask further questions. Counsel should have an  
11 extra copy of the deposition for this purpose.

12 3. Where a witness is absent and the witness's testimony is offered by  
13 deposition, counsel may: (a) have a reader occupy the witness chair and read the  
14 testimony of the witness while the examining lawyer asks the questions; or (b) have  
15 counsel read both the questions and answers.

16 I. Interrogatories and Requests for Admissions.

17 Whenever counsel expects to offer a group of answers to interrogatories or requests for  
18 admissions extracted from one or more lengthy documents, counsel must prepare a new  
19 document listing each question and answer and identifying the document from which it has been  
20 extracted. Copies of this new document should be given to the court and opposing counsel.

21 VII. COMPLIANCE WITH THIS ORDER, THE LOCAL RULES AND THE FEDERAL RULES  
22 OF CIVIL PROCEDURE.

23 All parties and their counsel are ordered to become familiar with the Federal Rules of Civil  
24 Procedure, the Local Rules of the Central District of California and the court's standing orders. The  
25 failure of any party or attorney to comply with the requirements of this Order, the Local Rules or  
26 the Federal Rules of Civil Procedure may result in sanctions being imposed.

27 ///

28 ///

Povilas Karcauskas v. Regreso Financial Services LLC, et al.  
Case No. CV 15-9225 FMO (RAOx)

CASE DEADLINES

The court hereby enters the following scheduling order:

1. Any stipulation or motion to amend as to any claims, defenses and/or parties shall be lodged/filed no later than **May 6, 2016**, failing which it shall be deemed that party's waiver of any such amendments in this action. All "Doe" defendants are to be identified and named on or before **May 6, 2016**, on which date all remaining "Doe" defendants will be dismissed, unless otherwise ordered by the court upon a showing of good cause.

2. All fact discovery shall be completed no later than **September 7, 2016**.

3. All expert discovery shall be completed by **November 21, 2016**. The parties must serve their Initial Expert Witness Disclosures no later than **September 21, 2016**. Rebuttal Expert Witness Disclosures shall be served no later than **October 21, 2016**. The parties should commence expert discovery shortly after the initial designation of experts, because Local Rules 7-3 and 37-1 require ample time to meet and confer as well as brief the matters, and because the final pretrial conference and trial dates will not be continued merely because expert discovery is still underway.

4. The parties shall complete their settlement conference before a private mediator no later than **September 7, 2016**. Plaintiff's counsel shall contact the mediator far enough in advance so that the settlement conference date is early enough to comply with the settlement completion deadline imposed by this court. After obtaining available dates from the mediator, counsel for the parties shall confer with each other and select one of the proposed dates. Plaintiff's counsel shall then advise the mediator of the settlement conference date selected by parties. If the case settles, counsel shall file a Notice of Settlement no later than 24 hours after the case is settled, stating when they expect to file their dismissal papers. Otherwise, **the parties must, no later than 48 hours after the settlement proceeding is completed, file a Status Report Re: Settlement**. The Status Report shall not disclose the parties' settlement positions, i.e., the terms of any offers or demands. The Status Report shall describe the efforts made by the parties to resolve the

Exh 2 Page 111

1 dispute informally, i.e., the occasions and dates when the parties participated in mediation. The  
2 Status Report shall also include the name of the mediator who assisted the parties with their  
3 settlement conference.

4 5. Any motion for summary judgment and/or other potentially dispositive motion shall be  
5 filed no later than **December 21, 2016**, and noticed for hearing regularly under the Local Rules.  
6 Any untimely or non-conforming motion will be denied. *All potentially dispositive motions shall*  
7 *comply with the requirements set forth in the Court's Order Re: Summary Judgment Motions*  
8 *issued contemporaneously with the filing of this Order.* Each party is allowed one potentially  
9 dispositive motion.

10 6. Any motion for class certification shall be filed no later than **January 20, 2017**, and  
11 noticed for hearing regularly under the Local Rules. Any untimely or non-conforming motion will  
12 be denied. *The motion for class certification shall comply with the requirements set forth in the*  
13 *Court's Order Re: Motions for Class Certification issued contemporaneously with the filing of this*  
14 *Order.*

15 7. The court will set pre-trial conference and trial dates, if necessary, after the resolution  
16 of any dispositive motions and the class certification motion.

17 8. Failure to comply with any provisions of this Order may result in sanctions being  
18 imposed.

19 Dated this 11th day of March, 2016.

20 \_\_\_\_\_ /s/  
21 Fernando M. Olguin  
22 United States District Judge  
23  
24  
25  
26  
27  
28

**Exhibit 9**

Exh 2 Page 113

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

POVILAS KARCAUSKAS,  
on behalf of himself and all  
others similarly situated,

Plaintiff,

vs.

REGRESO FINANCIAL  
SERVICES LLC;  
GOLDSMITH & HULL, APC;  
WILLIAM I. GOLDSMITH;  
and DOES 1 to 10;

Defendants.

Case No. 2:15-cv-09225-FMO-RAOx

ORDER AMENDING SCHEDULING  
AND CASE MANAGEMENT ORDER  
AND ORDER RE MOTIONS FOR CLASS  
CERTIFICATION [DKT. 35, 36]

On stipulation of the seeking to amend the Amended Scheduling and Case Management Order (see Dkt. 35) and the Order re Motions for Class Certification (see Dkt. 36) and good cause appearing, those orders shall be amended as follows:

1. Plaintiff's co-counsel, O. Randolph Bragg, who is located in Chicago, may conduct the depositions set by Plaintiff via telephone, Skype, or some other means of video or teleconferencing.

2. The Scheduling and Case Management Order shall reflect a 90-day continuance of the following dates and all associated dates:

- a. Fact discovery completion date continued from September 7, 2016 to December 7, 2016;
- b. Settlement conference completion date continued from September 7, 2016 to December 7, 2016;
- c. Deadline to serve initial expert disclosures continued from September 21, 2016 to December 21, 2016;
- d. Deadline to serve rebuttal expert disclosures continued from October 21, 2016 to January 23, 2017;
- e. Expert discovery completion date continued from November 21, 2016 to February 21, 2017;
- f. Motion for summary judgment or other dispositive motions shall filing deadline continued from December 21, 2016 to March 21, 2017; and
- g. Deadline to file joint brief re class certification continued from January 20, 2017 to April 20, 2017.

**IT IS SO ORDERED.**

DATED: August 3, 2016

/s/  
Fernando M. Olguin  
United States District Judge



Robert Stempler, Cal. Bar No. 160299  
Email: Robert@StopCollectionHarassment.com  
CONSUMER LAW OFFICE OF  
ROBERT STEMLER, APC  
P.O. Box 7145; Oxnard, CA 93031-7145  
Telephone (805) 246-2300  
Fax: (805) 576-7800

O. Randolph Bragg, Attorney Admitted *Pro Hac Vice*  
Email: rand@horwitzlaw.com  
HORWITZ, HORWITZ & ASSOCIATES  
25 East Washington Street, Suite 900; Chicago, IL 60602  
Telephone (312) 372-8822  
Facsimile (312) 372-1673

Counsel for Plaintiff-Moving Party

LEWIS BRISBOIS BISGAARD & SMITH LLP  
STEPHEN H. TURNER, SB# 89627  
E-Mail: Stephen.Turner.lewisbrisbois.com  
LARISSA G. NEFULDA, SB# 201903  
E-Mail: Larissa.Nefulda.lewisbrisbois.com  
633 West 5<sup>th</sup> Street, Ste. 4000  
Los Angeles, CA 90071  
Telephone: 213.250.1800  
Facsimile: 213.250.7900

Attorneys for Defendants-Opposing Parties,  
GOLDSMITH & HULL, APC and WILLIAM I. GOLDSMITH

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

POVILAS KARCAUSKAS,  
on behalf of himself and all  
others similarly situated,

Plaintiff,

vs.

REGRESO FINANCIAL  
SERVICES LLC; et al.;

Defendants.

Case No. 2:15-cv-09225-FMO-RAOx

JOINT STIPULATION OF COUNSEL ON  
PLAINTIFF POVILAS KARCAUSKAS'  
MOTION TO COMPEL FURTHER  
RESPONSES AND DOCUMENT  
PRODUCTION FROM GOLDSMITH &  
HULL, APC TO (1)  
INTERROGATORIES; (2) REQUESTS  
FOR ADMISSION; AND (3) REQUESTS  
FOR PRODUCTION OF DOCUMENTS

Discovery Cutoff Date: 12/07/2016  
Class Cert. Motion Deadline: 04/20/2017  
Pretrial Conference & Trial Date: Not set.

TABLE OF CONTENTS

Plaintiff-Moving Party's Introductory Statement

Defendant-Opposing Party's Introductory Statement

JOINT STIPULATION

I. Terms (all in UPPERCASE) and Instructions in Plaintiff's sets of discovery

II. Numerosity of the L4AR form letters sent to California addressees since November 30, 2014

A. Interrogatories Nos. 10, 24

1. Interrogatory 10

Verbatim request

Verbatim response

Moving party's contentions and points and authorities

Authorities re: Response Notwithstanding Objections Waives the Objections

Objections Must be Stated with Sufficient Specificity

Authorities re: Irrelevant, Beyond Scope, Overly Broad, Unduly Burdensome, and Relevance

Authorities re: Unduly Burdensome, Overbearing, Duplicative

Authorities re: Vague, Ambiguous, Unintelligible

Authorities re: Unspecified "Privilege" Without a Privilege Log

Authorities re: Witness Names, Addresses and Telephone Numbers

Responding party's contentions and points and authorities

2. Interrogatory 24

Verbatim request

Verbatim response

Moving party's contentions and points and authorities  
Responding party's contentions and points and authorities

B. Document Demands No. 13

Verbatim request  
Verbatim response  
Moving party's contentions and points and authorities  
Responding party's contentions and points and authorities

C. Request for Admission Nos. 100-108

1. Request for Admission 100

Verbatim request  
Verbatim response  
Moving party's contentions and points and authorities  
Responding party's contentions and points and authorities

2. Request for Admission 101

Verbatim request  
Verbatim response  
Moving party's contentions and points and authorities  
Responding party's contentions and points and authorities

3. Request for Admission 102

Verbatim request  
Verbatim response  
Moving party's contentions and points and authorities  
Responding party's contentions and points and authorities

4. Request for Admission 103

Verbatim request  
Verbatim response

1 Moving party's contentions and points and authorities  
2 Responding party's contentions and points and authorities  
3 5. Request for Admission 104  
4 Verbatim request  
5 Verbatim response  
6 Moving party's contentions and points and authorities  
7 Responding party's contentions and points and authorities  
8 6. Request for Admission 105  
9 Verbatim request  
10 Verbatim response  
11 Moving party's contentions and points and authorities  
12 Responding party's contentions and points and authorities  
13 7. Request for Admission 106  
14 Verbatim request  
15 Verbatim response  
16 Moving party's contentions and points and authorities  
17 Responding party's contentions and points and authorities  
18 8. Request for Admission 107  
19 Verbatim request  
20 Verbatim response  
21 Moving party's contentions and points and authorities  
22 Responding party's contentions and points and authorities  
23 9. Request for Admission 108  
24 Verbatim request  
25 Verbatim response  
26 Moving party's contentions and points and authorities  
27 Responding party's contentions and points and authorities  
28

1 III. Net Worth of G&H for purposes of FDCPA & RFDCPA class damages

2  
3 A. Interrogatories Nos. 18, 20

4 1. Interrogatory 18

5 Verbatim request

6 Verbatim response

7 Moving party's contentions and points and authorities

8 Authorities re: Defendant's Net Worth and Financial Statements

9 Authorities re: Available Information and Documents

10 Responding party's contentions and points and authorities

11 2. Interrogatory 20

12 Verbatim request

13 Verbatim response

14 Moving party's contentions and points and authorities

15 Responding party's contentions and points and authorities

16  
17 B. Document Demands Nos. 43, 44

18 1. Document Demand 43

19 Verbatim request

20 Verbatim response

21 Moving party's contentions and points and authorities

22 Responding party's contentions and points and authorities

23 2. Document Demand 44

24 Verbatim request

25 Verbatim response

26 Moving party's contentions and points and authorities

27 Responding party's contentions and points and authorities

1 C. Request for Admission No. 79

2 Verbatim request

3 Verbatim response

4 Moving party's contentions and points and authorities

5 Responding party's contentions and points and authorities

6  
7 IV. Approval and use of the L4AR form letters sent to consumers in California

8 A. Document Demands Nos. 20, 27, 34

9 1. Document Demand 20

10 Verbatim request

11 Verbatim response

12 Moving party's contentions and points and authorities

13 Responding party's contentions and points and authorities

14 2. Document Demand 27

15 Verbatim request

16 Verbatim response

17 Moving party's contentions and points and authorities

18 Responding party's contentions and points and authorities

19 3. Document Demand 34

20 Verbatim request

21 Verbatim response

22 Moving party's contentions and points and authorities

23 Responding party's contentions and points and authorities

24  
25 V. Affirmative defense of bona fide error

26 A. Interrogatory No. 15

27 Verbatim request

28 Verbatim response

Moving party's contentions and points and authorities

Responding party's contentions and points and authorities

B. Document Demands Nos. 39, 53

1. Document Demand 39

Verbatim request

Verbatim response

Moving party's contentions and points and authorities

Responding party's contentions and points and authorities

2. Document Demand 53

Verbatim request

Verbatim response

Moving party's contentions and points and authorities

Responding party's contentions and points and authorities

TABLE OF EXHIBITS



1 Pursuant to Local Civil Rule 37-2 et seq., counsel for the parties indicated  
2 above submit the attached Joint Stipulation for Plaintiff's motion to compel further  
3 responses and document production from defendant GOLDSMITH & HULL, APC  
4 (referred to as "G&H") and from defendant WILLIAM I. GOLDSMITH (referred to  
5 as "Goldsmith") (referred to collectively as "Defendants") to Plaintiff's written  
6 discovery requests consisting of: (1) interrogatories, (2) requests for admission, and  
7 (3) requests for production of documents. Responding party in this motion is  
8 Defendant G&H. Defendant Regreso Financial Services, LLC is referred to simply  
9 as "Regreso" is not a part of this motion.

10 Plaintiff also seeks an award of attorney's fees, pursuant to rule 37(a)(5) of the  
11 Federal Rules of Civil Procedure, against the responding party and its counsel.

Plaintiff-Moving Party's Introductory Statement

Plaintiff requests an order of the Court compelling G&H to provide (1) its electronic records which indicate any letters sent to debtors in the form of Exhibit A in order that the records may be searched to determine numerosity and (2) financial documents in order to determine Defendants' net worth for computing statutory damages under the FDCPA. Defendants assert that they don't have the information or refuse to conduct a manual search of their records to provide information for numerosity. Defendants objected to discovery related to their net worth.

Plaintiff's complaint alleges a class action under the Fair Debt Collection Practices Act, 15 U.S.C. § 1692, *et seq.* ("FDCPA") and the California Rosenthal Fair Debt Collection Practices Act, Cal. Civil Code § 1788.10, *et seq.* ("RFDCPA") for the written communications to Plaintiff and members of the class (see complaint's Exhibits A, B, C and D). In particular, Exhibit A attached to Plaintiff's complaint misrepresented, contrary to FDCPA §§ 1692e, 1692e(2)(A), and 1692e(10), the status and involvement of the alleged original creditor, Chase Manhattan Bank. Also, Exhibit A misrepresented, contrary to FDCPA §§ 1692e, 1692e(2)(A), 1692e(5), and 1692e(10), that the collection case included "the wage assignment as ordered by the Court," though there was no wage assignment order pending in the case.

In their amended answers to complaint, the defendants admit their status as a debt collection agency or debt collectors, subject to both FDCPA and RFDCPA, and the subject matter jurisdiction of this court for this case. Also, defendants admit in their answer to complaint that Regreso was suspended by the Cal. Secretary of State from April 2, 2015 through July 14, 2015 and that Chase Manhattan Bank was not their client and that letters sent to Plaintiff misstate the case was improperly styled as "Chase Manhattan Bank" as the judgment creditor in the California Superior Court. In their answer to complaint, the defendants deny violating any section of the FDCPA and the RFDCPA and deny each of the allegations for class certification. Defendants

1 assert the bona fide error defense, which the District Judge did not strike, following  
2 Plaintiff's motion to strike the affirmative defense.

3 Despite specific requests for the class size or the number of letters sent in the  
4 form of Exhibit A, the defendants have failed and refused to produce that information  
5 or documentation and refuse to search their records for all persons sent Exhibit A.  
6 Rule 23(a)(1) of the Federal Rules of Civil Procedure requires that the class be "so  
7 numerous that joinder of all members is impracticable." *Gay v. Waiters and Dairy*  
8 *Lunchmen's Union*, 549 F.2d. 1330 (9th Cir. 1977). Defendants also refused to  
9 produce their financial information, though the basis to compute the statutory  
10 damages under the FDCPA is 1% and under the RFDCPA is also 1% of a defendant's  
11 net worth. Defendants have stated that six individuals were the subject of the  
12 deceptive communications in the form of Exhibits B, C and D.

13 With their responses to sets 1 and 2, Defendants G&H and Goldsmith produced  
14 only a copy of their insurance policies (Bates Nos. GH 01-40) and the entire file from  
15 the collection case against Plaintiff (Bates Nos. GH 41-164) regarding California  
16 Superior Court in Sonoma County. After entry of the stipulated protective order,  
17 Defendants G&H and Goldsmith produced only a copy of the FDCPA (Bates Nos.  
18 GH 165-189) and Bates Nos. GH 190 thru 200, which Defendants designated as  
19 confidential, but which Plaintiff disputed on July 14, 2016, as it was merely part of  
20 an FDCPA "Consumer Compliance Handbook." G&H produced a redacted copy of  
21 G&H's financial statement for 2014/2015 as Bates Nos. GH 201-4 subject to the  
22 Protective Order and G&H's collection files for Plaintiff as Bates Nos. GH 205-222.)

23 This stipulation is organized by subject matter, as many of the interrogatories,  
24 requests for admission, and document demands correspond by particular subjects, as  
25 follows: (I) definitions applicable to the items in dispute, (II) numerosity of class  
26 members, (III) responding party's net worth, (IV) approval and use of form letters,  
27 (V) the defendants' affirmative defense of bona fide error.

1 Many general and boilerplate objections were asserted by the defendants to  
2 Plaintiff's discovery. Plaintiff's counsel has had two rounds of meet and confer letters  
3 and telephone conversations with defendants' counsel as to sets 1 and 2, which has  
4 resulted in partly amended responses, as stated below. Many of the objections have  
5 been withdrawn, yet many of the requests have not been answered completely and  
6 responsive documents have been withheld improperly.

7 Previous litigation involving defendant Goldsmith & Hull, APC, reveals that  
8 defendant (including Goldsmith, as its attorney) uses form objections to improperly  
9 withhold documents from production. *De Amaral v. Goldsmith & Hull, APC*, Case  
10 No. 12-cv-03580-WHO, 2014 WL 572268, \*3 (N.D. Cal., Feb. 11, 2014)  
11 [*"De Amaral"*] [*"Suffice it to say, the defendants show a stark misunderstanding of*  
12 *their obligations in discovery. . . . Defendants objected to the request for being,*  
13 *among other things, burdensome and harassing, and later said that after a reasonable*  
14 *search and diligent inquiry no documents were known to exist other than ones that*  
15 *were produced."*]. This misconduct appears to be a legitimate concern in the instant  
16 case, in which defendant has interposed improper/boilerplate objections, failed to  
17 comply with the duty to search for responsive documents (including ESI), given  
18 responses that fail to comply with the FRCP, and failed to serve a privilege log.

19 Accordingly, this motion to compel is needed, for which Plaintiff also seeks  
20 an award of attorney's fees as part of the order, per FRCP Rule 37(a)(5), as each of  
21 Plaintiff's meet and confer letters indicated not only the relevant rules and case law  
22 applicable to the disputed items, but also the rules applicable to monetary sanctions  
23 for the continued assertion of meritless objections and the responding party's refusal  
24 to provide: (a) non-evasive complete responses, (b) agreement to produce all  
25 responsive documents, (c) complete document production, and (d) a privilege log.  
26 In particular, Plaintiff needs defendant to completely answer interrogatories and  
27 produce documents that identify the persons to whom G&H sent the form letter of  
28 Exhibit A (for numerosity) and each defendant's net worth (for statutory damages).

Defendant-Opposing Party's Introductory Statement

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

JOINT STIPULATION

I. Terms (all in UPPERCASE) defined and instructions re privilege for the discovery in dispute

Definitions

“DOCUMENT” or “DOCUMENTS” means and includes every means of recording upon any tangible thing any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combinations thereof, including any handwriting, typewriting, printing, photostating, photographing, and/or any other means of communication.

“PERSON” or “PERSONS” means and includes any man, woman, individual, auctioneer, corporation, organization, association, partnership, firm, joint venture, governmental body, agency, governing board, department, division, trust, business trust, or any other entity.

“EMPLOYEE” or “EMPLOYEES” means and includes any and all current and former employees, managers, agents, and “in-house” attorneys of an organization.

“FDCPA” refers to the Fair Debt Collection Practices Act, 15 U.S.C. §§ 1692-1692o.

“RFDCPA” refers to the Rosenthal Fair Debt Collection Practices Act, Cal. Civil Code § 1788.10 *et seq.*

“YOU” or “YOUR” means and includes RESPONDING PARTY and RESPONDING PARTY’s EMPLOYEES. If “you(r)” is not capitalized, then it shall be limited to and mean the RESPONDING PARTY only.

“COMMUNICATION” means and includes written correspondence, recordings, and state court pleadings.

“RESPONDING PARTY” means G&H.

“PLAINTIFF” means POVILAS KARCAUSKAS.

“REGRESO” means Regreso Financial Services LLC.

“G&H” means Goldsmith & Hull, APC.

1 “COMPLAINT” means PLAINTIFF’s complaint in this matter.

2 “EXHIBIT A” means Exhibit A attached to the COMPLAINT.

3 “EXHIBIT B” means Exhibit B attached to the COMPLAINT.

4 “EXHIBIT C” means Exhibit C attached to the COMPLAINT.

5 “EXHIBIT D” means Exhibit D attached to the COMPLAINT.

6 “DEBT” means the purported obligation referenced in EXHIBIT A.

7 “CONSUMER” has the same meaning as defined in the FDCPA.

8  
9 Instructions re Privilege

10 Production of Documents. In the event that any DOCUMENT called for by this  
11 request is withheld on the basis of a claim of privilege, please identify that  
12 DOCUMENT by stating its author(s), addressee(s), indicated or blind copy  
13 recipient(s), date, subject matter, number of pages, attachments or appendices, all  
14 PERSONS to whom distributed, shown or explained, present custodian, and the  
15 nature of the claimed privilege. Such information is sometimes referred to as a  
16 “Privilege Log.”

17 Interrogatories. If you decline to respond to any interrogatory in whole or in  
18 part because of a claim of privilege, please: (a) identify the subject matter, type (e.g.,  
19 letter, memorandum), date, and author of the privileged communication or  
20 information, all persons that prepared or sent it, and all recipients or addressees; (b)  
21 identify each person to whom the contents of each such communication or item of  
22 information have heretofore been disclosed, orally or in writing; (c) state what  
23 privilege is claimed; and (d) state the basis upon which the privilege is claimed.



II. Numerosity of the L4AR form letters sent to California addressees since November 30, 2014

A. Interrogatories Nos. 10, 24

1. Interrogatory 10.

Verbatim Request

For each letter in the form of Exhibit A mailed at any time on or after November 30, 2014, state the total number, names and addresses of persons in California.

Verbatim response

Objection. The interrogatory is overly broad, unduly burdensome, harassing, vague and ambiguous. The interrogatory calls for information which is not relevant and not reasonably calculated to lead to the discovery of admissible evidence regarding Plaintiff's claims and Defendant's defenses. The interrogatory calls for confidential and private information and violates the right to privacy of third parties. Subject to and without waiving said objections, Defendant responds as follows: Aside from Exhibit A, Defendant is not aware of any letter that Defendant sent where the original creditor was listed as plaintiff incorrectly as opposed to the debt buyer.

Moving party's contentions and points and authorities

Objections of not relevant, not reasonably calculated to lead to the discovery of admissible evidence, overly broad, unduly burdensome, harassing, confidential, private, and third party privacy lack merit, are merely boilerplate and not specific. *Mancia, supra*; *Beach v. City of Olathe, Kans.* 203 F.R.D. 489, 497 (D. Kan. 2001). The old boilerplate of "not reasonably calculated to lead" is no longer the standard in FRCP Rule 26(b)(1). Also, these objections are waived by answering "subject to

1 . . . said objections.” *Communications Co., L.P. v. Comcast Cable Communications,*  
2 *LLC, supra.* The intent of this interrogatory is to get the total number of collection  
3 letters sent to persons in California for purposes of obtaining the number of class  
4 members in connection with Plaintiff’s motion for class certification, which requires  
5 numerosity be stated in the motion. It also seeks each person’s name and address.  
6 “The disclosure of names, addresses, and telephone numbers is a common practice  
7 in the class action context.” *Artis v. Deere & Co.*, 276 F.R.D. 348, 352–53 (N.D. Cal.  
8 2011). The answer to this interrogatory is appropriate for numerosity and probative  
9 on this issue of commonality. Rule 23(a)(1) of the Federal Rules of Civil Procedure  
10 requires that the class be “so numerous that joinder of all members is impracticable.”  
11 *Gay v. Waiters and Dairy Lunchmen’s Union*, 549 F.2d. 1330 (9th Cir. 1977).

12 Moreover, the stated answer (“subject to . . . said objections”) is false in that  
13 it states that Defendant can identify only one letter as having been sent. In fact,  
14 Defendant sent two form letters directly to Plaintiff according to Defendant’s internal  
15 collection records, a copy of which is attached here as Exhibit 6, which shows that  
16 an L4AR form letter has been sent to Plaintiff dated September 9, 2015 as well as  
17 January 4, 2016. In fact, Plaintiff received both form letters. Thus, Defendant has  
18 given false discovery responses in this case, as it did in *De Amaral, supra.*

19 During the meet and confer attempts to get Defendant to amend, Plaintiff  
20 proposed to limit the answer to all persons in California to whom the form letter was  
21 sent for any debt buyer client (Defendant’s phrase) in which the original creditor was  
22 falsely listed as the plaintiff, rather than the correct debt buyer’s name, but Defendant  
23 did not amend and would not agree to any amendments, nor would Defendant agree  
24 to withdraw any of the objections asserted. During the meet and confer process,  
25 Plaintiff advised Defendant’s counsel of the following citations that apply here,  
26 which Plaintiff submits also in support of this motion to compel further response:  
27  
28

Authorities re: Response Notwithstanding Objections Waives the Objections

The court, in *Sprint Communications Co., L.P. v. Comcast Cable Communications, LLC*, Nos. 11–2684, 11–2685, 11–2686, 2014 WL 545544, \*2-3 (D. Kan., Feb. 11, 2014), citing *Haeger v. Goodyear Tire & Rubber Co.*, 906 F.Supp.2d 938, 976-77 (D.Ariz. 2012):

The court recognizes that it has become common practice among many practitioners to respond to discovery requests by asserting objections and then answering “subject to” or “without waiving” their objections. This practice, however, is manifestly confusing (at best) and misleading (at worse), and has no basis at all in the Federal Rules of Civil Procedure. The court joins a growing number of federal district courts in concluding that such conditional answers are invalid and unsustainable.

. . . .

In addition to their failure to convey any information, conditional responses are not permitted by the Federal Rules of Civil Procedure. Rule 34(b)(2) permits only three responses to a request for production of documents: produce the documents as requested, “state an objection to the request” as a whole, or state an “objection to part of [the] request” provided that the response specifies the part objected to and responds to the non-objectionable portion. [footnote omitted] “Objecting but answering subject to the objection is not one of the allowed choices under the Federal Rules.” [footnote omitted] Thus, no objections may be “reserved” under the rules; “they are either raised or they are waived.” [footnote omitted]

1           Finally, courts have recognized that conditional responses violate  
2 common sense. In *Haeger v. Goodyear Tire and Rubber Co.*, U.S.  
3 District Judge Roslyn O. Silver of the District of Arizona concluded that  
4 if Rule 34 were read to allow parties to combine objections with a partial  
5 response that does not specify whether other potentially responsive  
6 material is being withheld, “discovery would break down in practically  
7 every case.” [footnote omitted] Judge Silver explained,

8           A litigant with any viable objection to a discovery request would  
9 make that objection and then produce whatever portion of otherwise  
10 responsive documents it wished to produce. Under this approach, a party  
11 would have no obligation to indicate that its production was partial and  
12 the opposing party would have no way of knowing the production was  
13 partial. Absent an indication of what, exactly, the responding party was  
14 objecting to, courts would have no way of assessing the propriety of the  
15 objections. Instead, courts would be flooded with motions to compel by  
16 litigants seeking to confirm that undisclosed responsive documents did  
17 not exist. And courts would then be forced to ask counsel, over and over  
18 again, “Do other documents exist?” [footnote omitted]

19 . . . .

20           For these reasons, the court follows its sister courts in holding,  
21 “whenever an answer accompanies an objection, the objection is deemed  
22 waived and the answer, if responsive, stands.” [footnote omitted]

Objections Must be Stated with Sufficient Specificity

The Rutter Group treatise by James M. Wagstaffe, Cal. Practice Guide: Federal Civil Procedure Before Trial, Cal. & 9<sup>th</sup> Circuit Edition (Rutter Group Thomson Reuters Westlaw) [cited as “Rutter”], states (bolding and italics in treatise):

(4) [11:1733] **Sufficiency of objection:** All grounds for objection to an interrogatory must be stated “with specificity.” [FRCP 33(b)(4); see *Nagele v. Electronic Data Systems Corp.* (WD NY 2000) 193 FRD 94, 109—objection that interrogatories were “burdensome” overruled because objecting party failed to “particularize” basis for objection; see also *Mancia v. Mayflower Textile Services Co.* (D MD 2008) 253 FRD 354, 357—boilerplate objections waived any legitimate objections responding party may have had; *Deere v. American Water Works Co., Inc.* (SD IN 2015) 306 FRD 208, 215—“general objections are entitled to little if any weight”]

If required to make the objection understandable, the objecting party must state *reasons* for any objection. [See FRCP 33(b)(4); *Chubb Integrated Sys. Ltd. v. National Bank of Wash.* (D DC 1984) 103 FRD 52, 58—“irrelevant” did not fulfill party's burden to explain its objections]

Federal Rules of Civil Procedure rule 33(b)(4) states that “the grounds for objecting to an interrogatory must be stated with specificity.” The Ninth Circuit, in *Davis v. Fendler*, 650 F.2d 1154, 1160 (9th Cir. 1981), stated:

Moreover, objections should be plain enough and specific enough so that the court can understand in what way the interrogatories are alleged to be objectionable. Appellant never identified, with any specificity, the interrogatories to which the claim of privilege pertained. Appellant’s blanket claim of privilege is simply not sufficient.

1 The Eleventh Circuit, in *Panola Land Buyers' Association v. Sherman*, 762  
2 F.2d 1550, 1559 (11th Cir. 1985), stated:

3 To be adequate, objections which serve as the basis of a motion for  
4 protective order under Fed.R.Civ.P. 26 should be “plain enough and  
5 specific enough so that the court can understand in what way the  
6 interrogatories are alleged to be objectionable.” *Davis v. Fendler*, 650  
7 F.2d 1154, 1160 (9th Cir.1981). *See Josephs v. Harris Corp.*, 677 F.2d  
8 985 (3d Cir.1982) (quoting *Roesberg v. Johns-Manville Corp.*, 85  
9 F.R.D. 292, 296–97 (E.D.Pa.1980)) (“party resisting discovery ‘must  
10 show specifically how . . . each interrogatory is not relevant or how each  
11 question is overly broad, burdensome or oppressive....’ ”).

12  
13 In *Burns v. Imagine Films Entertainment Inc.*, 164 F.R.D. 589, 592-3  
14 (W.D.N.Y. 1996), the court stated:

15 Defendants also filed objections stating that the Discovery Request is  
16 overbroad, vague and unduly burdensome. However, these objections  
17 were not sufficiently specific to allow the court to ascertain the claimed  
18 objectionable character of the Discovery Request, further, this type of  
19 general objection is not proper. As objections to interrogatories must be  
20 specific and supported by detailed explanation of why the  
21 interrogatories are objectionable. *Roesberg v. Johns–Manville Corp.*, 85  
22 F.R.D. 292, 296–97 (E.D.Pa.1980) (to successfully object to an  
23 interrogatory, a defendant cannot simply state that the interrogatory is  
24 overly broad, burdensome, oppressive and irrelevant, rather, the party  
25 opposing discovery must specifically demonstrate how each  
26 interrogatory was overly broad, burdensome, oppressive or irrelevant).  
27 Additionally, the fact that answering the interrogatories will require the  
28 objecting party to expend considerable time, effort and expense



1 consulting, reviewing and analyzing “huge volumes of documents and  
2 information” is an insufficient basis to object. *Roesberg, supra*, at  
3 296–97. Therefore, Defendants did not meet their burden under Rule  
4 33(a) of making a specific showing of reasons why the interrogatories  
5 should not be answered or documents not produced where they merely  
6 made conclusory objections. Accordingly, these objections shall not  
7 prevent the Defendants from providing the information sought in the  
8 Discovery Request.

9  
10 In *Burns, supra*, 164 F.R.D. at 594, the district court stated:  
11 The party asserting the privilege and resisting discovery has the burden  
12 of establishing the existence of the privilege. Fed.R.Civ.P. 26(b)(5);  
13 *National Union Fire Insurance Company of Pittsburgh v. Midland*  
14 *Bancor, Inc.*, 159 F.R.D. 562, 567 (D. Kan.1994). See, e.g., *Fisher v.*  
15 *United States*, 425 U.S. 391, 96 S.Ct. 1569, 48 L.Ed.2d 39 (1976); *von*  
16 *Bulow by Auersperg v. von Bulow*, 811 F.2d 136, 144 (2d Cir.), cert.  
17 denied, 481 U.S. 1015, 107 S.Ct. 1891, 95 L.Ed.2d 498 (1987). Blanket  
18 assertions of privilege are insufficient to satisfy this burden. *National*  
19 *Union Fire, supra*, at 567. The party claiming the privilege must supply  
20 opposing counsel with sufficient information to assess the applicability  
21 of the privilege or protection, without revealing information which is  
22 privileged or protected. *First Savings Bank, F.S.B. v. First Bank System,*  
23 *Inc.*, 1995 WL 250394, \*4 (D.Kan.1995); *Johnson v. City of*  
24 *Philadelphia*, 1994 WL 665718, \*5 (E.D. Pa.1994).



The Responding Party Has the Burden To Provide Support for Each Objection

“The party who resists discovery has the burden to show that discovery should not be allowed, and has the burden of clarifying, explaining, and supporting its objections.” *Nadler v. Nature’s Way Products, LLC*, No. EDCV 13–100–TJH (KKx), 2014 WL 5761122, at \*2 (C.D. Cal. Nov. 5, 2014); *DirecTV, Inc. v. Trone*, 209 F.R.D. 455, 458 (C.D.Cal.2002) *Oakes v. Halvorsen Marine Ltd.*, 179 F.R.D. 281, 283 (C.D. Cal. 1998).

Authorities re: Irrelevant, Beyond Scope, Overly Broad,  
Unduly Burdensome, and Relevance

FRCP Rule 26(b)(1) states:

**Scope in General.** Unless otherwise limited by court order, the scope of discovery is as follows: Parties may obtain discovery regarding any nonprivileged matter that is relevant to any party’s claim or defense and proportional to the needs of the case, considering the importance of the issues at stake in the action, the amount in controversy, the parties’ relative access to relevant information, the parties’ resources, the importance of the discovery in resolving the issues, and whether the burden or expense of the proposed discovery outweighs its likely benefit. Information within this scope of discovery need not be admissible in evidence to be discoverable.

The Court, in *A. Farber and Partners, Inc. v. Garber*, 234 F.R.D. 186, 188 (C.D. Cal. 2006), stated:

As an initial matter, general or boilerplate objections such as "overly burdensome and harassing" are improper--especially when a party fails to submit any evidentiary declarations supporting such

1 objections. *Paulsen v. Case Corp.*, 168 F.R.D. 285, 289  
2 (C.D.Cal.1996); *see also McLeod, Alexander, Powel & Apffel, P.C. v.*  
3 *Quarles*, 894 F.2d 1482, 1485 (5th Cir.1990) (objections that document  
4 requests were overly broad, burdensome, oppressive, and irrelevant were  
5 insufficient to meet objecting party's burden of explaining why  
6 discovery requests were objectionable); *Panola Land Buyers Ass'n v.*  
7 *Shuman*, 762 F.2d 1550, 1559 (11th Cir.1985) (conclusory recitations  
8 of expense and burdensomeness are not sufficiently specific to  
9 demonstrate why requested discovery is objectionable). [footnote  
10 omitted] Similarly, boilerplate relevancy objections, without setting  
11 forth any explanation or argument why the requested documents are not  
12 relevant, are improper.

13  
14 Rutter, *supra*, states (bolding and italics in treatise):

15 [11:1734] **Overbroad questions:** Where an interrogatory is  
16 overbroad, the responding party should answer whatever part of the  
17 question is proper, object to the balance and provide some *meaningful*  
18 *explanation* of the basis for the objection. [*Mitchell v. National R.R.*  
19 *Passenger Corp.* (D DC 2002) 208 FRD 455, 458, fn. 4; *St. Paul*  
20 *Reinsurance Co., Ltd. v. Commercial Fin'l Corp.* (ND IA 2001) 198  
21 FRD 508, 512--objections must explain how request or interrogatory is  
22 overbroad or unduly burdensome; *Gassaway v. Jarden Corp.* (D KS  
23 2013) 292 FRD 676, 682]

24 For example:

25 Interrogatory: "State the names of any doctors who treated you or  
26 *with whom you have consulted* regarding your injuries."

27 Response: "I was treated by Doctor Janet Jones. OBJECTED TO  
28 *insofar as this Interrogatory asks for* names of nontreating doctors

1 whom I may have consulted because their identities are protected as  
2 attorney work product.”

3  
4  
5 Authorities re: Unduly Burdensome, Overbearing, Duplicative

6 In *Biovail Labs. Inc. v. Anchen Pharmaceuticals, Inc.*, 233 F.R.D. 648, 651-652  
7 (C.D. Cal. 2006), the court stated:

8 “ ‘Generally, the purpose of discovery is to remove surprise from trial  
9 preparation so the parties can obtain evidence necessary to evaluate and  
10 resolve their dispute.’” *Moon v. SCP Pool Corp.*, 232 F.R.D. 633, 636  
11 (C.D.Cal.2005) (*quoting Oakes v. Halvorsen Marine Ltd.*, 179 F.R.D.  
12 281, 283 (C.D.Cal.1998)). “Toward this end, Rule 26(b) is liberally  
13 interpreted to permit wide-ranging discovery of information even though  
14 the information may not be admissible at the trial.” *Id.* (*citing Jones v.*  
15 *Commander, Kansas Army Ammunitions Plant*, 147 F.R.D. 248, 250  
16 (D.Kan.1993)). All discovery, and federal litigation generally, is subject  
17 to Rule 1, which directs that the rules “shall be construed and  
18 administered to secure the just, speedy, and inexpensive determination  
19 of every action.” Fed.R.Civ.P. 1; *Moon*, 232 F.R.D. at 636.

20  
21 “[T]he mere statement by a party that [an] interrogatory was overly broad,  
22 burdensome, oppressive and irrelevant is not adequate to voice a successful objection  
23 to an interrogatory.” *Josephs v. Harris Corp.*, 677 F.2d 985, 992 (3d Cir. 1982). In  
24 *Alexander v. Parsons*, 75 F.R.D. 536, 538-39 (W.D. Mich. 1977), the court held that  
25 discovery which would “require 2,000 man-hours of labor to search some 57,000  
26 records” would not support a protective order against such request.

1 The court, in *Chubb Integrated Systems v. Nat's Bank of Washington*, 103  
2 F.R.D. 52, 59-60 (D.D.C. 1984), stated:

3 Labelling plaintiff's effort as repetitious, does not support its  
4 objection. Standing alone, the fact that defendants conducted a search  
5 does not support plaintiff's claim of burdensomeness. An objection must  
6 show specifically how an interrogatory is overly broad, burdensome or  
7 oppressive, by submitting affidavits or offering evidence which reveals  
8 the nature of the burden. *See Roesberg v. Johns-Manville Corp.*, 85  
9 F.R.D. 292, 296-297 (E.D.Pa.1980); *see generally*, 4A J. Moore and J.  
10 Lucas, *Moore's Federal Practice* ¶ 33.27 (2d ed. 1983). Plaintiff's  
11 objections do not reveal the nature of its burden. Without more, this  
12 Court cannot conclude that Chubb will be unduly burdened by the  
13 interrogatories. Accordingly, we reject this argument.

14  
15 In *In re Folding Carton Antitrust Litigation*, 76 F.R.D. 417, 419 (N.D. Ill.  
16 1977), the court stated:

17 It should first be noted that the interrogatories are classic  
18 first-wave discovery. They seek information as to the identity of events  
19 and the individuals participating in them which is necessary as a prelude  
20 to second-wave depositions of the identified individuals. They are  
21 clearly within the scope of first-wave discovery previously delineated  
22 by the court.

23 Nor are they unduly burdensome. The more events and the more  
24 individuals involved, of course, the more burdensome answering the  
25 interrogatories will be. It can hardly be seriously contended, however,  
26 that the volume of possibly illegal activity at some point becomes so  
27 great as to make its disclosure unreasonably burdensome. The degree of  
28

1 burden will depend on the extent of the various defendants' activities  
2 and not on the interrogatories.

3  
4 Authorities re: Vague, Ambiguous, Unintelligible

5  
6 Rutter, *supra*, states (bolding and italics in treatise):

7  
8 [11:1735] **Vague and ambiguous questions:** Objections to  
9 interrogatories as vague and ambiguous are not likely to be upheld.

10  
11 1) [11:1736] **Interpretation:** First of all, respondents must exercise  
12 reason and common sense to attribute ordinary definitions to terms and  
13 phrases utilized in interrogatories. If necessary, *they may include any*  
14 *necessary, reasonable definition* of such terms or phrases in order to  
15 clarify their answers. [*Pulsecard, Inc. v. Discover Card Services, Inc.* (D  
16 KS 1996) 168 FRD 295, 310]

17  
18 For example:

19 --'Interrogatory: Did you speak to anyone following the accident?

20 --'Answer: Treating the question as calling only for  
21 conversations at the scene of the accident (rather than at  
22 any other time or place after the accident), the answer is:  
23 NO.'

24 2) [11:1737] **Effort to clarify:** Moreover, where the  
25 ambiguity can easily be resolved by conferring with the  
26 propounding party, courts are likely to overrule an  
27 objection that the interrogatory is vague and ambiguous.

[*Beach v. City of Olathe, Kans.* (D KS 2001) 203 FRD 489,  
497]

....

[11:2059] *Ambiguous*: It is *not* ground for objection that the request is “ambiguous” unless so ambiguous that the responding party cannot, in good faith, frame an intelligent reply. Parties should “admit to the fullest extent possible, and *explain in detail* why other portions of a request may not be admitted.” Failure to do so may result in sanctions (below). [*Marchand v. Mercy Med. Ctr.* (9th Cir. 1994) 22 F3d 933, 938]

[11:2060] **PRACTICE POINTER**: If you decide to object on the ground that an RFA is “too ambiguous to frame a response,” *include* an explanation of what you feel is ambiguous and why it prevents any intelligent reply.

Authorities re: Unspecified “Privilege” Without a Privilege Log

The Ninth Circuit, in *Davis v. Fendler*, 650 F.2d 1154, 1160 (9th Cir. 1981),  
stated:

Moreover, objections should be plain enough and specific enough so that the court can understand in what way the interrogatories are alleged to be objectionable. Appellant never identified, with any specificity, the interrogatories to which the claim of privilege pertained. Appellant’s blanket claim of privilege is simply not sufficient.

Rutter, *supra*, states (bolding and italics in treatise):

(b) [11:1918] **Documents withheld as privileged; privilege log requirement**: Parties withholding documents as privileged should identify and describe the documents in sufficient detail to enable the

1 demanding party “to assess the applicability of the privilege or  
2 protection.” [FRCP 26(b)(5); and see FRCP 45(e)(2)(A) (applicable to  
3 documents withheld under subpoena); *Ramirez v. County of Los Angeles*  
4 (CD CA 2005) 231 FRD 407, 410—failure to provide sufficient  
5 information may constitute waiver of privilege]

6 *Providing a “privilege log”* (see ¶11:1919) has become “an almost  
7 universal method of asserting privilege under the Federal Rules.”  
8 [*Caudle v. District of Columbia* (D DC 2009) 263 FRD 29, 35; *Novelty,*  
9 *Inc. v. Mountain View Marketing, Inc.* (SD IN 2009) 265 FRD 370,  
10 380-381]

11 . . . .

12 [11:1918.1] **PRACTICE POINTER:** To avoid any uncertainty, serve  
13 your privilege log within the 30 days allowed for response to the  
14 discovery request (see ¶11:1902). If unable to do so, ask opposing  
15 parties to stipulate to an extension; if they refuse your request, seek a  
16 court order. Otherwise, you risk having the court find your privilege  
17 claims waived.

18 . . . .

19 1) [11:1919] **Privilege log content:** To satisfy this requirement, the  
20 responding party should maintain a “privilege log,” setting forth:

21 The general nature of the document (without disclosing its contents);

22 The identity and position of its author;

23 The date it was written;

24 The identity and position of all addressees and recipients;

25 The document's present location;

26 The specific reason(s) it was withheld (which privilege claimed, etc.).

27 [*United States v. Construction Products Research, Inc.* (2nd Cir. 1996)

28 73 F3d 464, 473; see discussion at ¶11:795]



1       *Comment:* Listing each e-mail separately is crucial where different  
2 e-mails in the strand potentially raise different privilege grounds.

3  
4       *Waiver:* Keep in mind that if one message in the strand has been  
5 disclosed to someone outside the scope of privilege, the privilege is  
6 waived with respect to that message *and all attached* e-mails. [See  
7 *United States v. ChevronTexaco Corp.* (ND CA 2002) 241 F.Supp.2d  
8 1065, 1074-1075 & fn. 6]

9  
10       In *Ramirez v. County of Los Angeles*, 231 F.R.D. 407, 410 (C.D. Cal. 2005),  
11 the court stated:

12             Under Fed.R.Civ.P. 26(b)(5), a party who withholds discovery  
13 materials because of a claim of privilege or work product protection  
14 must notify the other party that it is withholding material. 1993 *Notes of*  
15 *Adv. Comm. to Fed.R.Civ.P. 26(b)*. The party who withholds discovery  
16 materials must provide sufficient information (i.e., a privilege log) to  
17 enable the other party to evaluate the applicability of the privilege or  
18 protection. *Id.*; see also *Clarke v. Am. Commerce Nat'l Bank*, 974 F.2d  
19 127, 129 (9th Cir.1992). Failure to provide sufficient information may  
20 constitute a waiver of the privilege. See *Eureka Fin. Corp. v. Hartford*  
21 *Accident & Indem. Co.*, 136 F.R.D. 179, 182-83 (E.D.Cal.1991) (a  
22 “blanket objection” to each document on the ground of attorney-client  
23 privilege with no further description is clearly insufficient); *Peat,*  
24 *Marwick, Mitchell & Co. v. West*, 748 F.2d 540, 542 (10th Cir.1984)  
25 (*per curiam*), *cert. dismissed*, 469 U.S. 1199, 105 S.Ct. 983, 83 L.Ed.2d  
26 984 (1985) (attorney-client privilege waived when defendant did not  
27 make a timely and sufficient showing that the documents were protected  
28 by privilege).

Authorities re: Witness Names, Addresses and Telephone Numbers

In granting a motion to compel credit reporting data pertaining to other consumers, the court in *Shaw v. Experian Information Solutions, Inc.*, 306 F.R.D. 293, 301 (S.D. Cal. 2015), citing *Artis v. Deere & Co.*, 276 F.R.D. 348, 352–53 (N.D.Cal.2011) (citing *Wiegele v. FedEx Ground Package Sys.*, 2007 WL 628041, at \*2 (S.D.Cal. Feb. 8, 2007)), stated:

In class action suits, the disclosure of names, addresses, and telephone numbers is commonly allowed, because such disclosure “does not involve revelation of personal secrets, intimate activities, or similar private information, which have been found to be serious invasions of privacy.” *Artis*, 276 F.R.D. at 353 (citing *Khalilpour v. CELLCO Partnership*, 2010 WL 1267749, at \*3 (N.D.Cal. Apr. 1, 2010)).

In *Artis v. Deere & Co.*, 276 F.R.D. 348, 352–53 (N.D. Cal. 2011), the court stated:

The disclosure of names, addresses, and telephone numbers is a common practice in the class action context. *See Currie–White v. Blockbuster, Inc.*, 2010 WL 1526314, at \*2 (N.D.Cal. Apr. 15, 2010); *see also Babbitt v. Albertson’s Inc.*, 1992 WL 605652, at \*6 (N.D.Cal. Nov. 30, 1992) (at pre-certification stage of Title VII class action, defendant employer ordered to disclose names, addresses, telephone numbers and social security numbers of current and past employees); *Putnam v. Eli Lilly & Co.*, 508 F.Supp.2d 812, 814 (C.D.Cal.2007) (ordering production of the names, addresses, and telephone numbers of putative class members, subject to a protective order, including those who worked in a sales division other than the plaintiff’s own). Given this standard, the Court finds that Plaintiff is entitled to the contact

1 information of putative class members. Plaintiff seeks this information  
2 in order to substantiate class allegations and to meet the certification  
3 requirements under Rule 23. The contact information and subsequent  
4 contact with potential class members is necessary to determine whether  
5 Plaintiff's claims are typical of the class, and ultimately whether the  
6 action may be maintained as a class action.

7 In reviewing Defendants' arguments, the Court notes that, with  
8 the exception of the applicants' right to privacy, their arguments tend to  
9 focus on whether Plaintiff will ultimately satisfy her burden of  
10 establishing that a class action is proper under Rule 23. However, the  
11 Court need not concern itself with these arguments here as Plaintiff's  
12 burden at this stage is to make a prima facie showing that the Rule 23  
13 class action requirements are satisfied, which the Court finds that she  
14 has done. *Mantolete*, 767 F.2d at 1424.

15 . . . .

16 Here, the putative class members may possess relevant  
17 discoverable information concerning issues dealing with Plaintiff's  
18 gender discrimination claims, as well as other class certification issues.  
19 Further, the privacy interests at stake in the names, addresses, and phone  
20 numbers must be distinguished from those more intimate privacy  
21 interests such as compelled disclosure of medical records and personal  
22 histories. *Id.* While the putative class members have a legally protected  
23 interest in the privacy of their contact information and a reasonable  
24 expectation of privacy the information sought by Plaintiff is not  
25 particularly sensitive. *See, e.g., Khalilpour v. CELLCO Partnership*,  
26 2010 WL 1267749, at \*3 (N.D.Cal. Apr. 1, 2010) ("the disclosure of  
27 names, addresses, and telephone numbers is common practice in the  
28 class action context because it does not involve revelation of personal

1 secrets, intimate activities, or similar private information, which have  
2 been found to be serious invasions of privacy”). As a result, Defendant’s  
3 privacy objections must yield to Plaintiff’s request for the information.  
4

5 In granting a plaintiff’s motion to compel class member information, the  
6 Central District, in *Putnam v. Eli Lilly & Co.*, 508 F.Supp.2d 812, 813-14 (C.D. Cal.  
7 2007), stated:

8 In order to certify a class under Rule 23 of the Federal Rules of  
9 Civil Procedure, plaintiff must set forth facts that support four  
10 requirements: 1. numerosity; 2. common questions of law or fact; 3.  
11 typicality of the claims or defenses; and 4. adequacy of the  
12 representation. Fed.R.Civ.P. 23(a), *see also In re Mego Financial*  
13 *Corporation Securities Litigation*, 213 F.3d 454, 462 (9th Cir.2000).  
14 The question here is whether the contact information for 348 employees  
15 of defendant—employees both inside and outside of plaintiff’s sales  
16 division—is needed by plaintiff to present its certification motion. While  
17 the Court recognizes that courts throughout the country have come out  
18 on both sides of this issue, this Court finds that, on balance, the  
19 information should be provided. [footnote omitted] *See, e.g., Babbitt v.*  
20 *Albertson’s, Inc.*, 1992 WL 605652, \*5–6 (N.D.Cal. Nov. 30, 1992)  
21 (court ordered production at pre-certification stage of names, addresses,  
22 telephone numbers and social security numbers of current and past  
23 employees, commenting that “[d]efendant has access to this information,  
24 and plaintiff should have the same access. Furthermore, the information  
25 could lead to the discovery of admissible evidence relevant to the class  
26 certification issue.”) (emphasis added).

27 Defendant offers no adequate explanation as to why information  
28 about pharmaceutical representatives in sales divisions other than the

1 one in which plaintiff worked is not relevant to the inquiry. Instead, it  
2 seems to the Court that contact with those individuals could well be  
3 useful for plaintiff to determine, at a minimum, the commonality and  
4 typicality prongs of Rule 23. Defendant also argues that even if the  
5 Court were to find the contact information relevant at this stage, the  
6 privacy rights of these individuals outweigh the relevance. While  
7 defendant is correct that individuals have a privacy interest in not having  
8 their names and addresses disclosed to third parties, the Court has  
9 balanced defendant's asserted right to privacy against the relevance and  
10 necessity of the information being sought by plaintiff. *See, e.g., Johnson*  
11 *v. Thompson*, 971 F.2d 1487, 1497 (10th Cir.1992); *Ragge v.*  
12 *MCA/Universal Studios*, 165 F.R.D. 601, 604–05 (C.D.Cal.1995) (the  
13 right to privacy is not absolute, but is “subject to invasion depending  
14 upon the circumstances.”). In doing so, special attention has been paid  
15 to defendant's concern over its perceived duty to protect its employees,  
16 as well as plaintiff's need to contact potential plaintiffs. As in *Gulf Oil*  
17 *Co. v. Bernard*, 452 U.S. 89, 101 S.Ct. 2193, 68 L.Ed.2d 693 (1981)  
18 (abuse of discretion for district court to ban communications concerning  
19 class action between parties and potential class members without court  
20 approval; “mere possibility of abuses” in class action litigation does not  
21 justify communications ban), the Court finds that plaintiff's needs here  
22 outweigh the concerns of defendant. Plaintiff has shown a legitimate  
23 need for the requested information to determine, among other things,  
24 whether common questions of law or fact exist and if plaintiff's claims  
25 are typical. The need is especially compelling here where the  
26 information to be disclosed concerns not disinterested third parties, but  
27 rather potential plaintiffs themselves. This information must be  
28 disclosed to enable plaintiff to proceed; a protective order can strike the

1 appropriate balance between the need for the information and the  
2 privacy concerns. [footnote omitted]  
3

4 Despite being made aware during meet and confer of the foregoing authorities,  
5 Defendant's refusal to withdraw the objections and failure to amend its answer to be  
6 straightforward and complete has resulted in this motion. There was no justification  
7 given by Defendant's counsel during the meet and confer for not withdrawing the  
8 objections and amending the response, per the meet and confer. It is unclear what  
9 (if any) documents or information Defendant has withheld, as explained in *Ramirez*  
10 *v. County of Los Angeles, supra*, 231 F.R.D. at 410. Since July 7, 2016, this court has  
11 had in place a stipulated protective order, under which any confidential documents  
12 and information could have been produced. Thus, not only should the court grant the  
13 motion to compel this answer, but the court should require Defendant and its counsel  
14 to pay Plaintiff's attorney's fees, pursuant to Rule 37(a)(5).  
15

16 Responding party's contentions and points and authorities

17 (Please provide this information within 7 days of receipt of this stipulation)  
18

19 2. Interrogatory 24.

20  
21 Verbatim request

22 State the state the total number, names, phone numbers and addresses of  
23 persons having an address in the state of California, to whom YOU sent letters, at any  
24 time on or after November 30, 2014, that stated "an employer must fully cooperate  
25 and follow the wage assignment as ordered by the Court," when there was no wage  
26 assignment order in that person's case at the time the letter was sent.  
27

28 Verbatim response



1           Objection. The interrogatory is overly broad, unduly burdensome, harassing,  
2           vague and ambiguous. The interrogatory calls for information which is not relevant  
3           and not reasonably calculated to lead to the discovery of admissible evidence  
4           regarding Plaintiff's claims and Defendant's defenses. The interrogatory calls for  
5           confidential and private information and violates the right to privacy of third parties.

6  
7                           Moving party's contentions and points and authorities

8           Objections of not relevant, not reasonably calculated to lead to the discovery  
9           of admissible evidence, vague, ambiguous, privacy of third parties, confidential and  
10          private, overly broad, unduly burdensome and harassing each lack merit, are merely  
11          boilerplate, and not specific. *Mancia, supra; Beach v. City of Olathe, Kans.* 203  
12          F.R.D. 489, 497 (D. Kan. 2001). The old boilerplate of "not reasonably calculated to  
13          lead" is no longer the standard in FRCP Rule 26(b)(1). "The former provision for  
14          discovery of relevant but inadmissible information that appears 'reasonably  
15          calculated to lead to the discovery of admissible evidence' is also deleted. The phrase  
16          has been used by some, incorrectly, to define the scope of discovery. As the  
17          Committee Note to the 2000 amendments observed, use of the 'reasonably calculated'  
18          phrase to define the scope of discovery 'might swallow any other limitation on the  
19          scope of discovery.'" Fed. R. Civ. P. 26. Advisory Committee Notes 2015  
20          Amendment.

21          No answer was given, not even as to the form letters sent to Plaintiff, as  
22          indicated in Exhibit 6. The intent of this interrogatory is to get the total number of  
23          collection letters to persons in California with the particular sentence fragment which  
24          appears to violate the FDCPA, for purposes of evaluating the number of class  
25          members in connection with Plaintiff's motion for class certification, which requires  
26          numerosity. Rule 23(a)(1). It also seeks each person's name and address. "The  
27          disclosure of names, addresses, and telephone numbers is a common practice in the  
28          class action context." *Artis v. Deere & Co.*, 276 F.R.D. 348, 352-53 (N.D. Cal. 2011).



1 The answer to this interrogatory is appropriate for numerosity and probative on this  
2 issue of commonality.

3 Despite being made aware during meet and confer of the foregoing authorities  
4 (as stated in interrogatory 10, Moving Party's Contentions and P&As), Defendant's  
5 refusal to withdraw the objections and answer this interrogatory has resulted in this  
6 motion. There was no justification given by Defendant's counsel during the meet and  
7 confer for not withdrawing the objections and responding, per the meet and confer,  
8 other than advising that they are unable to perform an electronic search of their  
9 computerized records, to which Plaintiff's counsel asked what had been done to  
10 search the records, to which Responding Party's counsel asserted that she did not  
11 know. It is unclear what (if any) documents or information Defendant are being  
12 withheld under the objections, as explained in *Ramirez v. County of Los Angeles*,  
13 *supra*, 231 F.R.D. at 410. Since July 7, 2016, this court has had in place a stipulated  
14 protective order, under which any confidential documents and information could have  
15 been produced. Thus, not only should the court grant the motion to compel this  
16 answer, but the court should require Defendant and its counsel to pay Plaintiff's  
17 attorney's fees, pursuant to Rule 37(a)(5).

18  
19 Responding party's contentions and points and authorities

20 (Please provide this information within 7 days of receipt of this stipulation)

21  
22  
23 B. Document Demands No. 13

24  
25 Verbatim request

26 All DOCUMENTS showing the number, names and addresses of persons in the  
27 state of California who were sent a collection letter in the form of EXHIBIT A, at any  
28 time on or after November 30, 2014.

1                   Verbatim response

2           Objection. The request is overly broad, unduly burdensome, oppressive, vague  
3 and ambiguous. The request calls for information which is not relevant and not  
4 reasonably calculated to lead to the discovery of admissible evidence regarding  
5 Plaintiff's claims and Defendant's defenses. The request calls for confidential and  
6 private information and violates the right to privacy of third parties. Subject to and  
7 without waiving said objections, Defendant responds as follows: All non-privileged  
8 documents which are within Defendant's possession, custody and control will be  
9 produced.

10  
11                   Moving party's contentions and points and authorities

12           Objections of not relevant, not reasonably calculated to lead to the discovery  
13 of admissible evidence, overly broad, unduly burdensome, oppressive, vague,  
14 ambiguous, confidential, proprietary, and the right of third parties to privacy lack  
15 merit, are merely boilerplate, and not specific. *Mancia, supra*; *Beach v. City of*  
16 *Olathe, Kans.* 203 F.R.D. 489, 497 (D. Kan. 2001). The old boilerplate of "not  
17 reasonably calculated to lead" is no longer the standard in FRCP Rule 26(b)(1). Also,  
18 they are waived by answering "subject to . . . said objections." *Communications Co.,*  
19 *L.P. v. Comcast Cable Communications, LLC, supra.* These objections are also  
20 meritless, as this is to get the total number of collection letters to persons in  
21 California sent this particular form letter, which appears to violate the FDCPA, for  
22 purposes of evaluating the number of class members in connection with Plaintiff's  
23 motion for class certification, which requires numerosity. Rule 23(a)(1). It also  
24 seeks documents that show each person's name and address, which is permitted. *Artis*  
25 *v. Deere, supra.* These documents are appropriate for numerosity and probative on  
26 this issue of commonality.

27           The response states: "All *non-privileged* documents which are within  
28 Defendant's possession, custody and control will be produced." No privilege log was

1 produced, so Plaintiff cannot evaluate what documents have been withheld based on  
2 “privilege.” It is unclear what (if any) documents or information Defendant has  
3 withheld, as explained in *Ramirez v. County of Los Angeles*, *supra*, 231 F.R.D. at 410.

4 Rule 34 requires a party (entity) to respond whether it will agree to produce all  
5 documents within the possession, custody or control. The amended response is  
6 unclear because the term “and” is used to join possession, custody and control, rather  
7 than “or.” Rutter, *supra*, ¶ 11:1915, states: “the response must state the extent to  
8 which the responding party is willing to comply and the extent to which it is unable  
9 or unwilling to comply. Ambiguity about these matters often leads to unnecessary  
10 motions to compel and sanctions.” See, above, for Plaintiff’s concerns from  
11 *De Amaral*, *supra*, related to this specific defendant being caught objecting to  
12 production of documents, responding “notwithstanding,” then trying to produce  
13 responsive documents later in a case. The objections should be overruled, as Plaintiff  
14 submits that this response is unclear. See Rutter, *supra*, ¶ 11:1912, which states:

15 (1) [11:1912] **Agreement to comply:** For each item or category, the  
16 response must state that inspection will be permitted as requested or  
17 state with specificity the grounds for objecting to the request, including  
18 the reasons. [FRCP 34(b)(2)(B)]

19 [11:1912.1] **PRACTICE POINTER:** Ambiguous responses are  
20 a common source of discovery disputes. E.g., agreeing to produce  
21 “responsive documents” creates an ambiguity as to whether some  
22 documents are being withheld on the basis of objections. Avoid the  
23 problem by either agreeing to produce “all documents requested in the  
24 demand” or specifying the particular documents and records that will be  
25 produced.  
26  
27  
28

1 In *City of Colton v American Promotional Events, Inc.*, 277 F.R.D. 578, 583  
2 (C.D. Cal. 2011), *quoting United States v. O'Keefe*, 537 F.Supp.2d 14, 23 (D.D.C.  
3 2008), the court explained ESI's relation within Rule 34:

4 Under Rule 34 of the Federal Rules of Civil Procedure, a distinction  
5 between documents and electronically stored information is made in  
6 terms of the form of production. As established above, a party is  
7 obligated to either produce documents as they are kept in the usual  
8 course of business or it 'must organize and label them to correspond to  
9 the categories in the request.' Fed.R.Civ.P. 34(b)(2)(E)(i). But if, as  
10 occurred here, electronically-stored information is demanded but the  
11 request does not specify a form of production, the responding party must  
12 produce the electronically-stored information in the form in which it is  
13 ordinarily maintained or in a reasonably useable form. Fed.R.Civ.P.  
14 34(b)(2)(E)(ii).... [¶] If one were to apply these rules to this case, it  
15 appears that the government's production of the electronically stored  
16 information in PDF or TIFF format would suffice, unless defendants can  
17 show that those formats are not 'reasonably useable' and that the native  
18 format, with accompanying metadata, meet the criteria of 'reasonably  
19 useable' whereas the PDF or TIFF formats do not."

20  
21 Despite being made aware during meet and confer of the foregoing authorities  
22 (as stated in interrogatory 10, Moving Party's Contentions and P&As), Defendant's  
23 refusal to withdraw the objections and respond unambiguously has resulted in this  
24 motion. There was no justification given by Defendant's counsel during the meet and  
25 confer for not withdrawing the objections and responding, per the meet and confer,  
26 other than advising that they are unable to perform an electronic search of their  
27 computerized records (such as Exhibit 6, collection history as to Plaintiff), to which  
28 Plaintiff's counsel asked what had been done to search the records, to which

1 Responding Party's counsel asserted that she did not know. Since July 7, 2016, this  
2 court has had in place a stipulated protective order, under which any confidential  
3 documents and information could have been produced. Thus, not only should the  
4 court grant the motion to compel these documents, but the court should require  
5 Defendant and its counsel to pay Plaintiff's attorney's fees, pursuant to Rule 37(a)(5).

6  
7 Responding party's contentions and points and authorities

8 (Please provide this information within 7 days of receipt of this stipulation)  
9

10  
11 C. Requests for Admission Nos. 100-108

12 1. Request for Admission 100  
13

14 Verbatim request

15 Admit that YOU sent over 40 (in total) letters, from November 30, 2014 thru  
16 the present date, to persons having an address in the state of California, which  
17 included the statement, "an employer must fully cooperate and follow the wage  
18 assignment as ordered by the Court."  
19

20 Verbatim response

21 Objection. The request is overly broad, unduly burdensome, oppressive and  
22 not relevant and not reasonably calculated to lead to the discovery of admissible  
23 evidence regarding Plaintiff's claims or Defendant's defenses.  
24

25 Moving party's contentions and points and authorities

26 This and the other RFAs in this series (numbers 100 thru 108) are relevant on  
27 the subject of numerosity, for purposes of fulfilling the requirements under Rule  
28 23(a)(1). Only objections were asserted, with no answer. Objections of not relevant,

1 not reasonably calculated to lead to the discovery of admissible evidence, overly  
2 broad, unduly burdensome, and oppressive are waived as not specific. FRCP 36(a)(4).  
3 The old boilerplate of “not reasonably calculated to lead” is no longer the standard  
4 in FRCP Rule 26(b)(1). “The former provision for discovery of relevant but  
5 inadmissible information that appears ‘reasonably calculated to lead to the discovery  
6 of admissible evidence’ is also deleted. The phrase has been used by some,  
7 incorrectly, to define the scope of discovery. As the Committee Note to the 2000  
8 amendments observed, use of the ‘reasonably calculated’ phrase to define the scope  
9 of discovery ‘might swallow any other limitation on the scope of discovery.’” Fed.  
10 R. Civ. P. 26. Advisory Committee Notes 2015 Amendment.

11 There was extensive meet and confer on the subject of numerosity, for purposes  
12 of fulfilling the requirements under Rule 23(a)(1). There was no justification given  
13 by Defendant’s counsel during the meet and confer for not withdrawing the  
14 objections and responding, per the meet and confer, other than advising that they are  
15 unable to perform an electronic search of their computerized records, to which  
16 Plaintiff’s counsel asked what had been done to search the records, to which  
17 Responding Party’s counsel asserted that she did not know.

18 Parties should “admit to the fullest extent possible, and explain in detail why  
19 other portions of a request may not be admitted.” Failure to do so may result in  
20 sanctions (below). [*Marchand v. Mercy Med. Ctr.* (9th Cir. 1994) 22 F3d 933, 938].”  
21 Thus, not only should the court grant the motion to compel an answer to this request  
22 and overrule (or strike) the objections, but the court should require Defendant and its  
23 counsel to pay Plaintiff’s attorney’s fees, pursuant to Rule 37(a)(5).

24  
25 Responding party’s contentions and points and authorities  
26 (Please provide this information within 7 days of receipt of this stipulation)  
27

28 2. Request for Admission 101



1                   Verbatim request

2           Admit that YOU sent over 100 (in total) letters, from November 30, 2014 thru  
3 the present date, to persons having an address in the state of California, which  
4 included the statement, “an employer must fully cooperate and follow the wage  
5 assignment as ordered by the Court.”

6  
7                   Verbatim response

8           Objection. The request is overly broad, unduly burdensome, oppressive and  
9 not relevant and not reasonably calculated to lead to the discovery of admissible  
10 evidence regarding Plaintiff’s claims or Defendant’s defenses. Subject to and without  
11 waiving said objections, Defendant responds as follows: Deny.

12  
13                   Moving party’s contentions and points and authorities

14           This and the other RFAs in this series (numbers 100 thru 108) are relevant on  
15 the subject of numerosity, for purposes of fulfilling the requirements under Rule  
16 23(a)(1). This was denied, notwithstanding the boilerplate objections asserted.  
17 Objections of not relevant, not reasonably calculated to lead to the discovery of  
18 admissible evidence, overly broad, unduly burdensome, and oppressive, lack merit,  
19 are merely boilerplate, and not specific. *Mancia, supra*; *Beach v. City of Olathe,*  
20 *Kans.* 203 F.R.D. 489, 497 (D. Kan. 2001). The old boilerplate of “not reasonably  
21 calculated to lead” is no longer the standard in FRCP Rule 26(b)(1). Also, they are  
22 waived by answering “subject to . . . said objections.” *Communications Co., L.P. v.*  
23 *Comcast Cable Communications, LLC, supra.* See, above, for Plaintiff’s concerns  
24 from *De Amaral, supra*, related to this specific defendant being caught objecting to  
25 production of documents, responding “notwithstanding,” then trying to produce  
26 responsive documents later in a case.

27           There was extensive meet and confer on the subject of numerosity, for purposes  
28 of fulfilling the requirements under Rule 23(a)(1). There was no justification given



1 by Defendant's counsel during the meet and confer for not withdrawing the  
2 objections and responding, per the meet and confer, other than advising that they are  
3 unable to perform an electronic search of their computerized records, to which  
4 Plaintiff's counsel asked what had been done to search the records, to which  
5 Responding Party's counsel asserted that she did not know.

6 Parties should "admit to the fullest extent possible, and explain in detail why  
7 other portions of a request may not be admitted." Failure to do so may result in  
8 sanctions (below). [*Marchand v. Mercy Med. Ctr.* (9th Cir. 1994) 22 F3d 933, 938]."  
9 Thus, not only should the court grant the motion to compel an answer to this request  
10 and overrule (or strike) the objections, but the court should require Defendant and its  
11 counsel to pay Plaintiff's attorney's fees, pursuant to Rule 37(a)(5).

12  
13 Responding party's contentions and points and authorities

14 (Please provide this information within 7 days of receipt of this stipulation)

15  
16 3. Request for Admission 102

17  
18 Verbatim request

19 Admit that YOU sent over 1000 (in total) letters, from November 30, 2014 thru  
20 the present date, to persons having an address in the state of California, which  
21 included the statement, "an employer must fully cooperate and follow the wage  
22 assignment as ordered by the Court."

23  
24 Verbatim response

25 Objection. The request is overly broad, unduly burdensome, oppressive and  
26 not relevant and not reasonably calculated to lead to the discovery of admissible  
27 evidence regarding Plaintiff's claims or Defendant's defenses. Subject to and without  
28 waiving said objections, Defendant responds as follows: Deny.

Moving party's contentions and points and authorities

Same response and objections as to admission 101. This and the other RFAs in this series (numbers 100 thru 108) are relevant on the subject of numerosity, for purposes of fulfilling the requirements under Rule 23(a)(1). This was denied, notwithstanding the boilerplate objections asserted. Objections of not relevant, not reasonably calculated to lead to the discovery of admissible evidence, overly broad, unduly burdensome, and oppressive, lack merit, are merely boilerplate, and not specific. *Mancia, supra*; *Beach v. City of Olathe, Kans.* 203 F.R.D. 489, 497 (D. Kan. 2001). The old boilerplate of "not reasonably calculated to lead" is no longer the standard in FRCP Rule 26(b)(1). Also, they are waived by answering "subject to . . . said objections." *Communications Co., L.P. v. Comcast Cable Communications, LLC, supra*. See, above, for Plaintiff's concerns from *De Amaral, supra*, related to this specific defendant being caught objecting to production of documents, responding "notwithstanding," then trying to produce responsive documents later in a case.

There was extensive meet and confer on the subject of numerosity, for purposes of fulfilling the requirements under Rule 23(a)(1). There was no justification given by Defendant's counsel during the meet and confer for not withdrawing the objections and responding, per the meet and confer, other than advising that they are unable to perform an electronic search of their computerized records, to which Plaintiff's counsel asked what had been done to search the records, to which Responding Party's counsel asserted that she did not know.

Parties should "admit to the fullest extent possible, and explain in detail why other portions of a request may not be admitted." Failure to do so may result in sanctions (below). [*Marchand v. Mercy Med. Ctr.* (9th Cir. 1994) 22 F3d 933, 938]. Thus, not only should the court grant the motion to compel an answer to this request and overrule (or strike) the objections, but the court should require Defendant and its counsel to pay Plaintiff's attorney's fees, pursuant to Rule 37(a)(5).

1                    Responding party's contentions and points and authorities

2 (Please provide this information within 7 days of receipt of this stipulation)

3  
4                    4.     Request for Admission 103

5  
6                    Verbatim request

7                    Admit that YOU sent over 5000 (in total) letters, from November 30, 2014 thru  
8 the present date, to persons having an address in the state of California, which  
9 included the statement, "an employer must fully cooperate and follow the wage  
10 assignment as ordered by the Court."

11  
12                   Verbatim response

13                   Objection. The request is overly broad, unduly burdensome, oppressive and  
14 not relevant and not reasonably calculated to lead to the discovery of admissible  
15 evidence regarding Plaintiff's claims or Defendant's defenses. Subject to and without  
16 waiving said objections, Defendant responds as follows: Deny.

17  
18                   Moving party's contentions and points and authorities

19                   Same response and objections as to admission 101. This and the other RFAs  
20 in this series (numbers 100 thru 108) are relevant on the subject of numerosity, for  
21 purposes of fulfilling the requirements under Rule 23(a)(1). This was denied,  
22 notwithstanding the boilerplate objections asserted. Objections of not relevant, not  
23 reasonably calculated to lead to the discovery of admissible evidence, overly broad,  
24 unduly burdensome, and oppressive, lack merit, are merely boilerplate, and not  
25 specific. *Mancia, supra*; *Beach v. City of Olathe, Kans.* 203 F.R.D. 489, 497 (D. Kan.  
26 2001). The old boilerplate of "not reasonably calculated to lead" is no longer the  
27 standard in FRCP Rule 26(b)(1). Also, they are waived by answering "subject to . .  
28 . said objections." *Communications Co., L.P. v. Comcast Cable Communications,*

1 *LLC, supra*. See, above, for Plaintiff's concerns from *De Amaral, supra*, related to  
2 this specific defendant being caught objecting to production of documents,  
3 responding "notwithstanding," then trying to produce responsive documents later in  
4 a case.

5 There was extensive meet and confer on the subject of numerosity, for purposes  
6 of fulfilling the requirements under Rule 23(a)(1). There was no justification given  
7 by Defendant's counsel during the meet and confer for not withdrawing the  
8 objections and responding, per the meet and confer, other than advising that they are  
9 unable to perform an electronic search of their computerized records, to which  
10 Plaintiff's counsel asked what had been done to search the records, to which  
11 Responding Party's counsel asserted that she did not know.

12 Parties should "admit to the fullest extent possible, and explain in detail why  
13 other portions of a request may not be admitted." Failure to do so may result in  
14 sanctions (below). [*Marchand v. Mercy Med. Ctr.* (9th Cir. 1994) 22 F3d 933, 938]."  
15 Thus, not only should the court grant the motion to compel an answer to this request  
16 and overrule (or strike) the objections, but the court should require Defendant and its  
17 counsel to pay Plaintiff's attorney's fees, pursuant to Rule 37(a)(5).

18  
19 Responding party's contentions and points and authorities

20 (Please provide this information within 7 days of receipt of this stipulation)

21  
22 5. Request for Admission 104

23 Verbatim request

24 Admit that YOU sent letters, at any time on or after November 30, 2014, to  
25 persons having an address in the state of California, which included the statement,  
26 "an employer must fully cooperate and follow the wage assignment as ordered by the  
27 Court," when there was no wage assignment order in that person's case at the time  
28 the letter was sent.

1                   Verbatim response

2           Objection. The request is overly broad, unduly burdensome, oppressive and  
3 not relevant and not reasonably calculated to lead to the discovery of admissible  
4 evidence regarding Plaintiff's claims or Defendant's defenses. Subject to and without  
5 waiving said objections, Defendant responds as follows: Defendant admits that it sent  
6 a letter to Plaintiff having an address in the state of California, which included the  
7 statement, "an employer must fully cooperate and follow the wage assignment as  
8 ordered by the Court," when there was no wage assignment order in Plaintiff's case  
9 at the time the letter was sent.

10  
11                   Moving party's contentions and points and authorities

12  
13                   Responding party's contentions and points and authorities

14 (Please provide this information within 7 days of receipt of this stipulation)

15  
16                   6.     Request for Admission 105

17  
18                   Verbatim request

19           Admit that YOU sent over 40 (in total) letters, from November 30, 2014 thru  
20 the present date, to persons having an address in the state of California, which  
21 included the statement, "an employer must fully cooperate and follow the wage  
22 assignment as ordered by the Court," when there was no wage assignment order in  
23 that person's case at the time the letter was sent.

24  
25                   Verbatim response

26           Objection. The request is overly broad, unduly burdensome, oppressive and  
27 not relevant and not reasonably calculated to lead to the discovery of admissible  
28 evidence regarding Plaintiff's claims or Defendant's defenses.

Moving party's contentions and points and authorities

Same objections and refusal to make any answer as to admission 100. This and the other RFAs in this series (numbers 100 thru 108) are relevant on the subject of numerosity, for purposes of fulfilling the requirements under Rule 23(a)(1). Objections of not relevant, not reasonably calculated to lead to the discovery of admissible evidence, overly broad, unduly burdensome, and oppressive are waived as not specific. FRCP 36(a)(4). The old boilerplate of "not reasonably calculated to lead" is no longer the standard in FRCP Rule 26(b)(1). "The former provision for discovery of relevant but inadmissible information that appears 'reasonably calculated to lead to the discovery of admissible evidence' is also deleted. The phrase has been used by some, incorrectly, to define the scope of discovery. As the Committee Note to the 2000 amendments observed, use of the 'reasonably calculated' phrase to define the scope of discovery 'might swallow any other limitation on the scope of discovery.'" Fed. R. Civ. P. 26. Advisory Committee Notes 2015 Amendment.

There was extensive meet and confer on the subject of numerosity, for purposes of fulfilling the requirements under Rule 23(a)(1). There was no justification given by Defendant's counsel during the meet and confer for not withdrawing the objections and responding, per the meet and confer, other than advising that they are unable to perform an electronic search of their computerized records, to which Plaintiff's counsel asked what had been done to search the records, to which Responding Party's counsel asserted that she did not know.

Parties should "admit to the fullest extent possible, and explain in detail why other portions of a request may not be admitted." Failure to do so may result in sanctions (below). [*Marchand v. Mercy Med. Ctr.* (9th Cir. 1994) 22 F3d 933, 938]. Thus, not only should the court grant the motion to compel an answer to this request and overrule (or strike) the objections, but the court should require Defendant and its counsel to pay Plaintiff's attorney's fees, pursuant to Rule 37(a)(5).



Responding party's contentions and points and authorities

(Please provide this information within 7 days of receipt of this stipulation)

7. Request for Admission 106

Verbatim request

Admit that YOU sent over 100 (in total) letters, from November 30, 2014 thru the present date, to persons having an address in the state of California, which included the statement, "an employer must fully cooperate and follow the wage assignment as ordered by the Court," when there was no wage assignment order in that person's case at the time the letter was sent.

Verbatim response

Objection. The request is overly broad, unduly burdensome, oppressive and not relevant and not reasonably calculated to lead to the discovery of admissible evidence regarding Plaintiff's claims or Defendant's defenses. Subject to and without waiving said objections, Defendant responds as follows: Deny

Moving party's contentions and points and authorities

Same response and objections as to admission 101. This and the other RFAs in this series (numbers 100 thru 108) are relevant on the subject of numerosity, for purposes of fulfilling the requirements under Rule 23(a)(1). This was denied, notwithstanding the boilerplate objections asserted. Objections of not relevant, not reasonably calculated to lead to the discovery of admissible evidence, overly broad, unduly burdensome, and oppressive, lack merit, are merely boilerplate, and not specific. *Mancia, supra*; *Beach v. City of Olathe, Kans.* 203 F.R.D. 489, 497 (D. Kan. 2001). The old boilerplate of "not reasonably calculated to lead" is no longer the standard in FRCP Rule 26(b)(1). Also, they are waived by answering "subject to . .



1 . said objections.” *Communications Co., L.P. v. Comcast Cable Communications,*  
2 *LLC, supra.* See, above, for Plaintiff’s concerns from *De Amaral, supra*, related to  
3 this specific defendant being caught objecting to production of documents,  
4 responding “notwithstanding,” then trying to produce responsive documents later in  
5 a case.

6 There was extensive meet and confer on the subject of numerosity, for purposes  
7 of fulfilling the requirements under Rule 23(a)(1). There was no justification given  
8 by Defendant’s counsel during the meet and confer for not withdrawing the  
9 objections and responding, per the meet and confer, other than advising that they are  
10 unable to perform an electronic search of their computerized records, to which  
11 Plaintiff’s counsel asked what had been done to search the records, to which  
12 Responding Party’s counsel asserted that she did not know.

13 Parties should “admit to the fullest extent possible, and explain in detail why  
14 other portions of a request may not be admitted.” Failure to do so may result in  
15 sanctions (below). [*Marchand v. Mercy Med. Ctr.* (9th Cir. 1994) 22 F3d 933, 938].”  
16 Thus, not only should the court grant the motion to compel an answer to this request  
17 and overrule (or strike) the objections, but the court should require Defendant and its  
18 counsel to pay Plaintiff’s attorney’s fees, pursuant to Rule 37(a)(5).

19  
20 Responding party’s contentions and points and authorities

21 (Please provide this information within 7 days of receipt of this stipulation)  
22

23 8. Request for Admission 107  
24

25 Verbatim request

26 Admit that YOU sent over 1000 (in total) letters, from November 30, 2014 thru  
27 the present date, to persons having an address in the state of California, which  
28 included the statement, “an employer must fully cooperate and follow the wage

1 assignment as ordered by the Court,” when there was no wage assignment order in  
2 that person’s case at the time the letter was sent.

3  
4 Verbatim response

5 Objection. The request is overly broad, unduly burdensome, oppressive and  
6 not relevant and not reasonably calculated to lead to the discovery of admissible  
7 evidence regarding Plaintiff’s claims or Defendant’s defenses. Subject to and without  
8 waiving said objections, Defendant responds as follows: Deny.

9  
10 Moving party’s contentions and points and authorities

11 Same response and objections as to admission 101. This and the other RFAs  
12 in this series (numbers 100 thru 108) are relevant on the subject of numerosity, for  
13 purposes of fulfilling the requirements under Rule 23(a)(1). This was denied,  
14 notwithstanding the boilerplate objections asserted. Objections of not relevant, not  
15 reasonably calculated to lead to the discovery of admissible evidence, overly broad,  
16 unduly burdensome, and oppressive, lack merit, are merely boilerplate, and not  
17 specific. *Mancia, supra*; *Beach v. City of Olathe, Kans.* 203 F.R.D. 489, 497 (D. Kan.  
18 2001). The old boilerplate of “not reasonably calculated to lead” is no longer the  
19 standard in FRCP Rule 26(b)(1). Also, they are waived by answering “subject to . .  
20 . said objections.” *Communications Co., L.P. v. Comcast Cable Communications,*  
21 *LLC, supra*. See, above, for Plaintiff’s concerns from *De Amaral, supra*, related to  
22 this specific defendant being caught objecting to production of documents,  
23 responding “notwithstanding,” then trying to produce responsive documents later in  
24 a case.

25 There was extensive meet and confer on the subject of numerosity, for purposes  
26 of fulfilling the requirements under Rule 23(a)(1). There was no justification given  
27 by Defendant’s counsel during the meet and confer for not withdrawing the  
28 objections and responding, per the meet and confer, other than advising that they are

1 unable to perform an electronic search of their computerized records, to which  
2 Plaintiff's counsel asked what had been done to search the records, to which  
3 Responding Party's counsel asserted that she did not know.

4 Parties should "admit to the fullest extent possible, and explain in detail why  
5 other portions of a request may not be admitted." Failure to do so may result in  
6 sanctions (below). [*Marchand v. Mercy Med. Ctr.* (9th Cir. 1994) 22 F3d 933, 938]."  
7 Thus, not only should the court grant the motion to compel an answer to this request  
8 and overrule (or strike) the objections, but the court should require Defendant and its  
9 counsel to pay Plaintiff's attorney's fees, pursuant to Rule 37(a)(5).

10  
11 Responding party's contentions and points and authorities

12 (Please provide this information within 7 days of receipt of this stipulation)

13  
14 9. Request for Admission 108

15  
16 Verbatim request

17 Admit that YOU sent over 5000 (in total) letters, from November 30, 2014 thru  
18 the present date, to persons having an address in the state of California, which  
19 included the statement, "an employer must fully cooperate and follow the wage  
20 assignment as ordered by the Court," when there was no wage assignment order in  
21 that person's case at the time the letter was sent.

22  
23 Verbatim response

24 Objection. The request is overly broad, unduly burdensome, oppressive and  
25 not relevant and not reasonably calculated to lead to the discovery of admissible  
26 evidence regarding Plaintiff's claims or Defendant's defenses. Subject to and without  
27 waiving said objections, Defendant responds as follows: Deny.

Moving party's contentions and points and authorities

Same response and objections as to admission 101. This and the other RFAs in this series (numbers 100 thru 108) are relevant on the subject of numerosity, for purposes of fulfilling the requirements under Rule 23(a)(1). This was denied, notwithstanding the boilerplate objections asserted. Objections of not relevant, not reasonably calculated to lead to the discovery of admissible evidence, overly broad, unduly burdensome, and oppressive, lack merit, are merely boilerplate, and not specific. *Mancia, supra*; *Beach v. City of Olathe, Kans.* 203 F.R.D. 489, 497 (D. Kan. 2001). The old boilerplate of "not reasonably calculated to lead" is no longer the standard in FRCP Rule 26(b)(1). Also, they are waived by answering "subject to . . . said objections." *Communications Co., L.P. v. Comcast Cable Communications, LLC, supra*. See, above, for Plaintiff's concerns from *De Amaral, supra*, related to this specific defendant being caught objecting to production of documents, responding "notwithstanding," then trying to produce responsive documents later in a case.

There was extensive meet and confer on the subject of numerosity, for purposes of fulfilling the requirements under Rule 23(a)(1). There was no justification given by Defendant's counsel during the meet and confer for not withdrawing the objections and responding, per the meet and confer, other than advising that they are unable to perform an electronic search of their computerized records, to which Plaintiff's counsel asked what had been done to search the records, to which Responding Party's counsel asserted that she did not know.

Parties should "admit to the fullest extent possible, and explain in detail why other portions of a request may not be admitted." Failure to do so may result in sanctions (below). [*Marchand v. Mercy Med. Ctr.* (9th Cir. 1994) 22 F3d 933, 938]." Thus, not only should the court grant the motion to compel an answer to this request and overrule (or strike) the objections, but the court should require Defendant and its counsel to pay Plaintiff's attorney's fees, pursuant to Rule 37(a)(5).

Responding party's contentions and points and authorities

(Please provide this information within 7 days of receipt of this stipulation)

III. Net Worth of G&H for purposes of FDCPA & RFDCPA class damages

A. Interrogatories Nos. 18, 20

1. Interrogatory 18

Verbatim request

State William I. Goldsmith's net worth, including how it was calculated.

Verbatim response

Objection. The interrogatory seeks information which is confidential, proprietary, and which is protected by Defendant's right to privacy. Further, the interrogatory seeks information which is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Moreover, Defendant objects to the extent this request calls for privileged information.

Moving party's contentions and points and authorities

Objections of not relevant, not reasonably calculated to lead to the discovery of admissible evidence, confidential, proprietary, "to the extent privileged," and right to privacy lack merit, are merely boilerplate, and not specific. *Mancia, supra*; *Beach v. City of Olathe, Kans.* 203 F.R.D. 489, 497 (D. Kan. 2001). The old boilerplate of "not reasonably calculated to lead" is no longer the standard in FRCP Rule 26(b)(1). Each defendant's net worth is relevant in an FDCPA class action (see 15 U.S.C. § 1692k(a), *Trevino, infra*), as that is the basis on which the statutory damages for the class are to be calculated (see below for "Authorities re: Defendant's Net Worth and

1 Financial Statements”). As to these interrogatories, defendant William I. Goldsmith  
2 signed the verification. Thus, responsive information is available to Defendant (see  
3 below for “Authorities re: Available Information and Documents”). Defendant is not  
4 an entity that is traded on any stock exchange, so the information needed for net  
5 worth is neither available from public sources nor is the information analyzed by any  
6 public agency, such as the SEC, or a group of investors. According to the deposition  
7 of G&H, only Mr. Goldsmith owns any stock in G&H.

8 Despite Plaintiff’s instructions to provide a privilege log and the foregoing  
9 meet and confer which explains the requirement for a log, no privilege log was  
10 produced, so Plaintiff cannot evaluate what documents are subject to the claim of  
11 “privilege.” It is unclear what (if any) documents or information Defendant has  
12 withheld, as explained in *Ramirez v. County of Los Angeles*, *supra*, 231 F.R.D. at 410.

13 There was extensive meet and confer on the subject of the defendants’ net  
14 worth, but no justification was given by Defendant’s counsel during the meet and  
15 confer for not withdrawing the objections and responding, other than it is private. As  
16 of this date, no information or documents stating Goldsmith's net worth or how it is  
17 calculated have been produced in this case. In connection with the 2015/2014  
18 financial statements produced by Defendant G&H and discussed during its Rule  
19 30(b)(6) deposition, it revealed some financial information about Mr. Goldsmith, due  
20 to his extensive relationship and dealings with G&H, but it did not reveal Mr.  
21 Goldsmith’s current net worth or calculations. Thus, this information or documents  
22 have not been provided to Plaintiff for Mr. Goldsmith.

23 In *Lucas v. G.C. Services, L.P.*, 226 F.R.D. 328, 334 (N.D.Ind. 2004), the Court  
24 resolved a discovery dispute in an FDCPA class action as follows:

25 Interrogatories No. 11–13 and Document Requests 19 and 21 seek  
26 financial information regarding the defendants' net worth. In response,  
27 the defendants provided a two-page unaudited balance sheet for GC  
28 Services and cited case law for the proposition that no other information



1 is relevant in FDCPA cases. *See Sanders v. Jackson*, 209 F.3d 998 (7th  
2 Cir.2000). On December 14, 2004, the defendants untimely provided an  
3 audited two-page balance sheet for GC Services. However, this court  
4 ordered the defendants to provide full and complete responses. The  
5 defendants have waived all legal defenses and must comply in full with  
6 the plaintiffs' requests. Specifically, the defendants are to provide an  
7 audited balance sheet for each defendant, an identification of each  
8 lawsuit in which the defendants have provided or produced financial  
9 statements or net worth information, an identification of each instance  
10 in which the defendants have provided their net worth to any  
11 government agency, and financial statements, annual reports,  
12 semiannual and quarterly financial statements, credit applications, and  
13 tax returns for the last three years.

14  
15 During the meet and confer on discovery disputes, Plaintiff provided the  
16 following analysis and authorities for this subject matter (net worth) and Defendant's  
17 objections, in addition to the many authorities cited above, which Plaintiff submits  
18 also in support of this motion to compel further response:

19  
20 Authorities re: Defendant's Net Worth and Financial Statements

21  
22 Rutter, *supra*, states (bolding and italics in treatise):

23 a. [11:991] **Privacy**: Federal courts generally recognize a right of  
24 privacy that can be raised in response to discovery requests. [*Johnson*  
25 *by Johnson v. Thompson* (10th Cir. 1992) 971 F2d 1487, 1497; *DeMasi*  
26 *v. Weiss* (3rd Cir. 1982) 669 F2d 114, 119-120]

27 Unlike a privilege, the right of privacy is not an absolute bar to  
28 discovery. Rather, courts balance the need for the information against



1 the claimed privacy right. [*Stallworth v. Brollini* (ND CA 2012) 288  
2 FRD 439, 444 (federal right of privacy); *West Bay One, Inc. v. Does*  
3 *1-1,653* (D DC 2010) 270 FRD 13, 15-16; *Shaw v. Experian*  
4 *Information Solutions, Inc.* (SD CA 2015) 306 FRD 293, 301]

5  
6 Courts consider various factors in performing the balancing analysis,  
7 including “(1) the type of information requested, (2) the potential for  
8 harm in any subsequent non-consensual disclosure, (3) the adequacy of  
9 safeguards to prevent unauthorized disclosure, (4) the degree of need for  
10 access, and (5) whether there is an express statutory mandate, articulated  
11 public policy, or other recognizable public interest militating toward  
12 access.” [See *Seaton v. Mayberg* (9th Cir. 2010) 610 F3d 530, 539, 541,  
13 fn. 47]

14  
15 In *Oakes v. Halvorsen Marine Ltd.*, 179 F.R.D. 281, 286 (C.D. Cal. 1995), the  
16 court stated:

17 The discovery of financial information relevant to a punitive  
18 damages claim is permissible under the Federal Rules of Civil  
19 Procedure, whether or not such evidence would be admissible at trial.  
20 *CEH*, 153 F.R.D. at 498–99. Moreover, as discussed above, one of the  
21 purposes behind the broad federal discovery rules is to facilitate  
22 settlement, and such financial information is valuable in assisting both  
23 sides in making a realistic appraisal of the case, and may lead to  
24 settlement and avoid protracted litigation. *Id.* at 499.

25  
26 In *Hawecker v. Sorenson*, No. 1:10–cv–00085 OWW JLT, 2011 WL 98598 \*2  
27 (E.D. Cal. Jan. 12, 2011), the court granted the plaintiff’s motion to compel further  
28

1 interrogatories, document production, and amended document responses regarding  
2 the defendant's net worth, as follows:

3 According to the "Joint Statement" filed by the parties, the disputes  
4 concern primarily the production of documents related to Defendant's  
5 net worth and documents created in the course of his rental business.  
6 (Doc. 50 at 5). Plaintiffs seek the discovery "to (1) determine  
7 defendant's financial condition; (2) test defendant's assertions  
8 concerning the drop in his net worth; (3) make informed settlement  
9 decisions; and (4) prepare for trial on their punitive damages claim." *Id.*  
10 at 3.

11  
12 *A. Requests related to Defendant's net worth*

13 Plaintiffs argued Defendant's responses "are insufficient to enable  
14 plaintiffs to calculate his net worth and determine whether his claims to  
15 reduced monetary means are meritorious." (Doc. 50 at 9). Plaintiffs have  
16 stated a claim for punitive damages, and as such argue that information  
17 relating to Defendant's financial condition is relevant to their case. *Id.*  
18 at 4.

19  
20 In *Gonzalez v. Totah Family Partnership*, No. 10cv2012-MMA (CAB), 2011  
21 WL 2135344 \*1-3 (S.D. Cal., May 31, 2011), the court stated:

22 **Interrogatory No. 2** requests the defendant's net worth. Plaintiffs seek  
23 this as relevant to their punitive damage claims. Defendant does not  
24 deny that the information is relevant, however Defendant represents that  
25 it intends to challenge plaintiffs' punitive damages allegations by  
26 motion practice. The motion to compel further a response to  
27 Interrogatory No. 2 is GRANTED . . . .

28 . . . .

1       **Document Requests Nos. 16–20** seek documents regarding the  
2       defendant's net worth. Responsive documents will be produced in  
3       accordance with the schedule set forth regarding further responses to  
4       Interrogatory No. 2, above.

5  
6       In *Trevino v. ACB American, Inc.*, 232 F.R.D. 612, 617 (N.D. Cal., 2006), the  
7       court stated:

8       **E. Discovery Related to Damages (Hilco Interrogatory no. 16; ACB**  
9       **Interrogatory no. 10; Hilco and ACB RFA nos. 1–9; Hilco and ACB**  
10       **RFP nos. 8, 19)**

11       Plaintiffs seek information about defendants' net worth, and the  
12       production of financial statements and tax returns for the last three years  
13       and two years, respectively.

14       The FDCPA explicitly states that damages in a class action case may be  
15       calculated based on defendants' net worth. *See* 15 U.S.C. § 1692k(a).  
16       Therefore, such information is relevant, and potentially useful in  
17       determining whether this case is appropriate for class certification.

18       Accordingly, *defendants are ordered to produce complete annual*  
19       *financial statements for the past three years, including, but not limited*  
20       *to, balance sheets, and profit and loss statements with notes.* [footnote  
21       omitted] *Plaintiffs' motions to compel the production of tax returns are*  
22       *denied without prejudice* and may be renewed later upon a better  
23       showing.

24  
25       In *A. Farber and Partners, Inc. v. Garber*, 234 F.R.D. 186, 191-92 (C.D. Cal.  
26       2006), the court stated:

27       Here, plaintiff has met its burden of showing the information sought is  
28       relevant, especially to plaintiff's civil RICO claims. *See, e.g., State Farm*

1 *Mut. Ins. Co. v. CPT Med. Servs., P.C.*, 375 F.Supp.2d 141, 156  
2 (E.D.N.Y.2005) (financial records, including tax returns, relevant in  
3 civil RICO action); *U.S. v. Bonanno Organized Crime Family of La*  
4 *Cosa Nostra*, 119 F.R.D. 625, 627 (E.D.N.Y.1988) (tax returns “clearly  
5 relevant” in civil RICO litigation). On the other hand, defendant Garber  
6 has not shown, or even attempted to show, the information sought is  
7 available from other sources. *Cotracom Commodity Trading Co.*, 189  
8 F.R.D. at 665; *Bonanno Organized Crime Family of La Cosa Nostra*,  
9 119 F.R.D. at 627. Therefore, defendant Garber’s tax returns and related  
10 documents are discoverable in this action, subject to an appropriate  
11 protective order as discussed herein.

12  
13 Authorities re: Available Information and Documents

14  
15 Rutter, *supra*, states (bolding and italics in treatise):

16 b. [11:1673] **Information known or available to entity party:**  
17 Interrogatories propounded to a public or private corporation,  
18 partnership, association or governmental agency must be answered by  
19 “any officer or agent, who must furnish the information *available to the*  
20 *party*” (not just known by the responding officer or agent). [FRCP  
21 33(b)(1)(B) (emphasis added); see ¶11:1747 ff.]

22 (1) [11:1674] **Effect:** Thus, for example, the responding party cannot  
23 plead lack of knowledge of matters *known to its employees or agents*;  
24 or data contained in its files or records.

25 (2) [11:1675] **Compare—depositions:** At a deposition, the deponent  
26 need answer only according to his or her *own knowledge* at that time;  
27 there is no duty to furnish “available” information (unless designated to  
28

1 testify on behalf of a corporation pursuant to FRCP 30(b)(6); see  
2 ¶11:1413 ff.).

3 . . . .

4 c. [11:1747] **Entity must furnish information known or available to**  
5 **it:** In answering interrogatories propounded to a corporation,  
6 partnership, association or governmental agency, the officer or agent  
7 responding on its behalf “must furnish the information *available* to the  
8 party.” [FRCP 33(b)(1)(B) (emphasis added)]

9 (1) [11:1748] **Effect:** The person responding on behalf of the entity is  
10 under a duty *to obtain and provide* nonprivileged information known to  
11 anyone in the entity's employ or over whom it has *control*. This includes  
12 information known to the entity's agents or lawyers (assuming the  
13 information is otherwise discoverable and neither privileged nor  
14 protected work product). [See *General Dynamics Corp. v. Selb Mfg. Co.*  
15 (8th Cir. 1973) 481 F2d 1204, 1210]

16 (2) Application

17 • [11:1749] A corporate party must furnish information known to its  
18 officers, directors and other sources under its control. [*Brunswick Corp.*  
19 *v. Suzuki Motor Co., Ltd.* (ED WI 1983) 96 FRD 684, 686—information  
20 known to subsidiary; *FDIC v. Halpern* (D NV 2010) 271 FRD 191,  
21 193—information sought from bank of which FDIC was receiver]

22 • [11:1750] Where interrogatories are served on an unincorporated  
23 association, Rule 33(a)(1)(B) allows it to select an officer or agent to  
24 respond on its behalf. [See *University of Texas at Austin v. Vratil* (10th  
25 Cir. 1996) 96 F3d 1337, 1340]

26  
27 Despite being made aware during meet and confer of the foregoing authorities,  
28 Defendant’s refusal to withdraw the objections and provide an answer has resulted

1 in this motion. There was no valid justification given by Defendant's counsel during  
2 the meet and confer for not withdrawing the objections and answering, per the meet  
3 and confer (other than stating that this is private). It is unclear what (if any)  
4 documents or information Defendant has withheld, as explained in *Ramirez v. County*  
5 *of Los Angeles, supra*, 231 F.R.D. at 410. Since July 7, 2016, this court has had in  
6 place a stipulated protective order, under which any confidential documents and  
7 information could have been produced. Thus, not only should the court grant the  
8 motion to compel this answer, but the court should require Defendant and its counsel  
9 to pay Plaintiff's attorney's fees, pursuant to Rule 37(a)(5).

10  
11  
12 Responding party's contentions and points and authorities

13 (Please provide this information within 7 days of receipt of this stipulation)  
14

15 2. Interrogatory 20  
16

17 Verbatim request

18 State G&H's net worth, including how it was calculated.  
19

20 Verbatim response

21 Objection. The interrogatory seeks information which is confidential,  
22 proprietary, and which is protected by Defendant's right to privacy. Further, the  
23 interrogatory seeks information which is neither relevant nor reasonably calculated  
24 to lead to the discovery of admissible evidence. Moreover, Defendant objects to the  
25 extent this request calls for privileged information. Subject to and without waiving  
26 said objections, Defendant responds as follows: Once an appropriate protective order  
27 is entered, Defendant will produce documents with the requested information.  
28



Moving party's contentions and points and authorities

Objections of not relevant, not reasonably calculated to lead to the discovery of admissible evidence, overly broad, unduly burdensome, harassing, confidential, proprietary, right to privacy lack merit, are merely boilerplate and not specific. *Mancia, supra*; *Beach v. City of Olathe, Kans.* 203 F.R.D. 489, 497 (D. Kan. 2001). The old boilerplate of "not reasonably calculated to lead" is no longer the standard in FRCP Rule 26(b)(1). Also, these objections are waived by answering "subject to . . . said objections." *Communications Co., L.P. v. Comcast Cable Communications, LLC, supra*.

Despite Plaintiff's instructions to provide a privilege log and the foregoing meet and confer which explains the requirement for a log, no privilege log was produced, so Plaintiff cannot evaluate what documents are subject to the claim of "privilege." It is unclear what (if any) documents or information Defendant has withheld, as explained in *Ramirez v. County of Los Angeles, supra*, 231 F.R.D. at 410.

Subject to the court's Protective Order entered July 7, 2016, Defendant sent a redacted copy of G&H's financial statements for the years 2015 and 2014, including notes and Plaintiff's counsel asked about them at the Rule 30(b)(6) deposition of G&H. The redactions and confidentiality designation prevent Plaintiff from attaching those financial statements to this motion, so Plaintiff may submit the documents separately under seal to be able to discuss why they are insufficient for Plaintiff to calculate the net worth of G&H, to answer this interrogatory. During the meet and confer process, Defendant's counsel stated it would not produce any further financial statements, though Mr. Goldsmith stated that he has had the same (unspecified) CPA firm prepare G&H's financial statements for over 30 years. Thus, not only should the court grant the motion to compel this be answered fully and with seven years of complete, unredacted financial statements, supporting schedules and CPA report, but the court should require Defendant and its counsel to pay Plaintiff's attorney's fees, pursuant to Rule 37(a)(5).



Responding party's contentions and points and authorities

(Please provide this information within 7 days of receipt of this stipulation)

B. Request for Production of Documents Nos. 43, 44

1. Document Demand 43

Verbatim request

All DOCUMENTS, including but not limited to financial statements, relating to the calculation of G&H's net worth.

Verbatim response

All non-privileged documents which are within Defendant's possession, custody and control will be produced once an appropriate protective order is entered.

Moving party's contentions and points and authorities

Despite Plaintiff's instructions to provide a privilege log and the foregoing meet and confer which explains the requirement for a log, no privilege log was produced, so Plaintiff cannot evaluate what documents are subject to the claim of "privilege." It is unclear what (if any) documents or information Defendant has withheld, as explained in *Ramirez v. County of Los Angeles, supra*, 231 F.R.D. at 410. However, from the Rule 30(b)(6) deposition, it is evident that many years of financial statements have been withheld that would help calculate Defendant's net worth, in that Mr. Goldsmith testified that the CPA has prepared financial statements for G&H for over 30 years. Also, the financial statement produced was heavily redacted, even the accountant's report and name have been omitted from production. Thus, not only

1 should the court grant the motion to compel this be answered fully and with seven  
2 years of complete, unredacted financial statements (see *Lucas v. G.C. Services, L.P.*,  
3 *supra*, 226 F.R.D. at 334, supporting schedules and CPA report, but the court should  
4 require Defendant and its counsel to pay Plaintiff's attorney's fees, pursuant to Rule  
5 37(a)(5).

6  
7 Responding party's contentions and points and authorities

8 (Please provide this information within 7 days of receipt of this stipulation)  
9

10 2. Document Demand 44

11  
12 Verbatim request

13 All DOCUMENTS, including but not limited to financial statements, relating  
14 to the calculation of William I. Goldsmith's net worth.  
15

16 Verbatim response

17 Objection. The request seeks information which is confidential, proprietary,  
18 and which is protected by Defendant's right to privacy. Further, the request is overly  
19 broad, unduly burdensome, harassing and seeks information which is not relevant and  
20 not reasonably calculated to lead to the discovery of admissible evidence. Defendant  
21 further objects to the extent this request calls for privileged information.  
22

23 Moving party's contentions and points and authorities

24 As with Interrogatory 18, Defendant has asserted only objections and refused  
25 to amend or provide any responsive documents to this. Objections of not relevant,  
26 not reasonably calculated to lead to the discovery of admissible evidence,  
27 confidential, proprietary, "to the extent privileged," and right to privacy lack merit,  
28 are merely boilerplate, and not specific. *Mancia, supra*; *Beach v. City of Olathe*,

1 *Kans.* 203 F.R.D. 489, 497 (D. Kan. 2001). The old boilerplate of “not reasonably  
2 calculated to lead” is no longer the standard in FRCP Rule 26(b)(1). Each  
3 defendant’s net worth is relevant in an FDCPA class action (see 15 U.S.C. §  
4 1692k(a), *Trevino, supra*), as that is the basis on which the statutory damages for the  
5 class are to be calculated (see above for “Authorities re: Defendant’s Net Worth and  
6 Financial Statements”). As to G&H’s interrogatories, defendant William I. Goldsmith  
7 signed the verification. Thus, responsive information is available to Defendant (see  
8 above for “Authorities re: Available Information and Documents”). Defendant is not  
9 an entity that is traded on any stock exchange, so the information needed for net  
10 worth is neither available from public sources nor is the information analyzed by any  
11 public agency, such as the SEC, or a group of investors. According to the deposition  
12 of G&H, only Mr. Goldsmith owns any stock in G&H.

13 Despite Plaintiff’s instructions to provide a privilege log and the foregoing  
14 meet and confer which explains the requirement for a log, no privilege log was  
15 produced, so Plaintiff cannot evaluate what documents are subject to the claim of  
16 “privilege.” It is unclear what (if any) documents or information Defendant has  
17 withheld, as explained in *Ramirez v. County of Los Angeles, supra*, 231 F.R.D. at 410.

18 There was extensive meet and confer on the subject of the defendants’ net  
19 worth, but no justification was given by Defendant’s counsel during the meet and  
20 confer for not withdrawing the objections and responding, other than it is private. As  
21 of this date, no information or documents stating Goldsmith’s net worth or how it is  
22 calculated have been produced in this case. In connection with the 2015/2014  
23 financial statements produced by Defendant G&H and discussed during its Rule  
24 30(b)(6) deposition, it revealed some financial information about Mr. Goldsmith, due  
25 to his extensive relationship and dealings with G&H, but it did not reveal Mr.  
26 Goldsmith’s current net worth or calculations. Thus, this information or documents  
27 have not been provided to Plaintiff for Mr. Goldsmith and the information provided  
28 for G&H is insufficient and the redactions of the financial statements made it

1 incomplete. Thus, not only should the court grant the motion to compel production  
2 of all responsive documents, but the court should require Defendant and its counsel  
3 to pay Plaintiff's attorney's fees, pursuant to Rule 37(a)(5).

4  
5 Responding party's contentions and points and authorities

6 (Please provide this information within 7 days of receipt of this stipulation)  
7

8  
9 C. Requests for Admission No. 79

10  
11 Verbatim request

12 Admit that your net worth is \$500,000.00 or greater.  
13

14 Verbatim response

15 Objection. The requests seeks information which is confidential, proprietary,  
16 and which is protected by Defendant's right to privacy. Further, the interrogatory  
17 seeks information which is neither relevant nor reasonably calculated to lead to the  
18 discovery of admissible evidence. Moreover, Defendant objects to the extent this  
19 request calls for privileged information.  
20

21 Moving party's contentions and points and authorities

22 Defendant has asserted only objections and refused to amend. Objections of  
23 not relevant, not reasonably calculated to lead to the discovery of admissible  
24 evidence, confidential, proprietary, "to the extent privileged," and right to privacy  
25 lack merit, are merely boilerplate, and not specific. *Mancia, supra*; *Beach v. City of*  
26 *Olathe, Kans.* 203 F.R.D. 489, 497 (D. Kan. 2001). The old boilerplate of "not  
27 reasonably calculated to lead" is no longer the standard in FRCP Rule 26(b)(1). Each  
28 defendant's net worth is relevant in an FDCPA class action (see 15 U.S.C. §

1 1692k(a), *Trevino, supra*), as that is the basis on which the statutory damages for the  
2 class are to be calculated (see above for “Authorities re: Defendant’s Net Worth and  
3 Financial Statements”).

4 Despite Plaintiff’s instructions to provide a privilege log and the foregoing  
5 meet and confer which explains the requirement for a log, no privilege log was  
6 produced, so Plaintiff cannot evaluate what documents are subject to the claim of  
7 “privilege.” It is unclear what (if any) documents or information Defendant has  
8 withheld, as explained in *Ramirez v. County of Los Angeles, supra*, 231 F.R.D. at 410.

9 Subject to the court’s Protective Order entered July 7, 2016, Defendant sent a  
10 redacted copy of G&H’s financial statements for the years 2015 and 2014, including  
11 notes and Plaintiff’s counsel asked about them at the Rule 30(b)(6) deposition of  
12 G&H. The redactions and confidentiality designation prevent Plaintiff from attaching  
13 those financial statements to this motion, so Plaintiff may submit the documents  
14 separately under seal to be able to explain why they are insufficient for Plaintiff to  
15 calculate the net worth of G&H and what further document should be produced.

16 Parties should “admit to the fullest extent possible, and explain in detail why  
17 other portions of a request may not be admitted.” Failure to do so may result in  
18 sanctions (below). [*Marchand v. Mercy Med. Ctr.* (9th Cir. 1994) 22 F3d 933, 938].”  
19 Thus, not only should the court grant the motion to compel an answer to this request  
20 and overrule (or strike) the objections, but the court should require Defendant and its  
21 counsel to pay Plaintiff’s attorney’s fees, pursuant to Rule 37(a)(5).

22  
23 Responding party’s contentions and points and authorities

24 (Please provide this information within 7 days of receipt of this stipulation)

25  
26  
27 IV. Approval and use of the L4AR form letters sent to consumers in California

28 A. Request for Production of Documents Nos. 20, 27, 34

1                   1.     Document Demand 20

2  
3                   Verbatim request

4                   All DOCUMENTS that refer to the approval and use of collection letters in the  
5 form of EXHIBIT A.

6  
7                   Verbatim response

8                   Objection. The request is overly broad, unduly burdensome and harassing.  
9 The request is vague, ambiguous, and calls for information which is not relevant and  
10 not reasonably calculated to lead to the discovery of admissible evidence regarding  
11 Plaintiff's claims and Defendant's defenses. Subject to and without waiving said  
12 objections, Defendant responds as follows: A good faith diligent search and a  
13 reasonable inquiry have been made in an effort to comply with this demand.  
14 Nevertheless, Defendant lacks the ability to comply with this request because the  
15 requested documents have never been in Defendant's possession, custody or control.

16  
17                   Moving party's contentions and points and authorities

18                   Objections of not relevant, not reasonably calculated to lead to the discovery  
19 of admissible evidence, overly broad, unduly burdensome, harassing, vague and  
20 ambiguous lack merit, are merely boilerplate and not specific. *Mancia, supra*; *Beach*  
21 *v. City of Olathe, Kans.* 203 F.R.D. 489, 497 (D. Kan. 2001). The old boilerplate of  
22 "not reasonably calculated to lead" is no longer the standard in FRCP Rule 26(b)(1).  
23 Also, these objections are waived by answering "subject to . . . said objections."  
24 *Communications Co., L.P. v. Comcast Cable Communications, LLC, supra*. Despite  
25 being advised of these authorities, Defendant refused to withdraw these objections.

26                   This information is relevant to the case against Mr. Goldsmith and possibly  
27 others who approved the letter. The Sixth Circuit held, in *Kistner v. Law Offices of*  
28 *Michael P. Margelefsky, LLC*, 518 F.3d 433, that an officer or employee "may be



1 personally liable on the basis of his participation in the debt collection activities of  
2 the [debt collection company] more generally.”

3 See, above, for Plaintiff’s concerns from *De Amaral, supra*, related to this  
4 specific defendant (including Goldsmith, as its counsel) being caught objecting to  
5 production of documents, responding “notwithstanding,” then trying to produce  
6 responsive documents later in a case. At the Rule 30(b)(6) deposition of G&H’s only  
7 witness, William I Goldsmith testified that he could not recall where they obtained  
8 the language used in the form letter attached to the complaint as Exhibit A or who  
9 approved of it, but it was probably from a letter. (Deposition Transcript on August  
10 11, 2016, at 29:20-30:19.) In this response, Defendant asserts that no document has  
11 ever existed related to the approval or use of the form letter, Exhibit A, so that there  
12 is nothing to be produced. Thus, not only should the court grant the motion to compel  
13 production of all responsive documents and overrule (or strike) the objections, but the  
14 court should require Defendant and its counsel to pay Plaintiff’s attorney’s fees,  
15 pursuant to Rule 37(a)(5), for interposing meritless and improper objections to  
16 discovery.

17  
18 Responding party’s contentions and points and authorities

19 (Please provide this information within 7 days of receipt of this stipulation)

20  
21 2. Document Demand 27

22  
23 Verbatim request

24 All DOCUMENTS that refer to any complaint or criticism by any person who  
25 was sent a collection letter in the form of EXHIBIT A.

26  
27 Verbatim response



1           Objection. The request is overly broad, unduly burdensome, oppressive, vague  
2 and ambiguous. The request calls for information which is not relevant and not  
3 reasonably calculated to lead to the discovery of admissible evidence regarding  
4 Plaintiff's claims and Defendant's defenses. The request calls for confidential and  
5 private information and violates the right to privacy of third parties. Subject to and  
6 without waiving said objections, Defendant responds as follows: All non-privileged  
7 documents which are within Defendant's possession, custody and control will be  
8 produced.

9  
10                   Moving party's contentions and points and authorities

11           Objections of not relevant, not reasonably calculated to lead to the discovery  
12 of admissible evidence, overly broad, unduly burdensome, harassing, vague and  
13 ambiguous lack merit, are merely boilerplate and not specific. *Mancia, supra*; *Beach*  
14 *v. City of Olathe, Kans.* 203 F.R.D. 489, 497 (D. Kan. 2001). The old boilerplate of  
15 "not reasonably calculated to lead" is no longer the standard in FRCP Rule 26(b)(1).  
16 Also, these objections are waived by answering "subject to . . . said objections."  
17 *Communications Co., L.P. v. Comcast Cable Communications, LLC, supra*. Despite  
18 being advised of these authorities, Defendant refused to withdraw these objections.

19           This response, "notwithstanding the objections," is improper, as the response  
20 must either be that the document production "will be permitted as requested" or the  
21 objections. *Aikens v. Deluxe Fin'l Services, Inc., supra*, 217 F.R.D. at 539  
22 (responding party still has duty to respond to extent request not objectionable). Rule  
23 34 requires a party (entity) respond whether it will agree to produce all documents  
24 within the possession, custody or control. The response is unclear because the term  
25 "and" is used to join possession, custody and control, rather than "or." Rutter, *supra*,  
26 ¶ 11:1915, states: "the response must state the extent to which the responding party  
27 is willing to comply and the extent to which it is unable or unwilling to comply.

1 Ambiguity about these matters often leads to unnecessary motions to compel and  
2 sanctions.” See, above, for Plaintiff’s concerns from *De Amaral, supra*.

3 This response is relevant in that it may not only reveal other victims of the  
4 working of the letter but it also goes to the dispute in this case that Exhibit A violates  
5 the FDCPA because it was likely to confuse debtors who received it.

6 In this response, Defendant states that responsive documents will be produced,  
7 but no responsive documents were produced as to debtors other than Plaintiff. Thus,  
8 not only should the court grant the motion to compel production of all responsive  
9 documents and to amend the response to comply with Rule 34, and overrule (or  
10 strike) the objections, but the court should require Defendant and its counsel to pay  
11 Plaintiff’s attorney’s fees, pursuant to Rule 37(a)(5), for interposing meritless and  
12 improper objections to discovery.

13  
14 Responding party’s contentions and points and authorities

15 (Please provide this information within 7 days of receipt of this stipulation)  
16

17 3. Document Demand 34  
18

19 Verbatim request

20 All manuals, instructions, guidelines, and other DOCUMENTS setting forth  
21 policies and procedures to be used by EMPLOYEES of G&H on sending letters in  
22 the form of Exhibit A.

23  
24 Verbatim response

25 Objection. The request calls for confidential and proprietary information.  
26 Subject to and without waiving said objections, Defendant responds as follows: Once  
27 an appropriate protective order is entered, all non-privileged documents which are  
28

1 within Defendant's possession, custody and control and which relate to Plaintiff's  
2 claims and Defendant's defenses will be produced.

3  
4 Moving party's contentions and points and authorities

5 Objections of confidential and proprietary are merely boilerplate and not  
6 specific. *Mancia, supra*; *Beach v. City of Olathe, Kans.* 203 F.R.D. 489, 497 (D.  
7 Kan. 2001). This response, "notwithstanding the objections," is improper, as the  
8 response must either be that the document production "will be permitted as  
9 requested" or the objections. *Aikens v. Deluxe Fin'l Services, Inc., supra*, 217 F.R.D.  
10 at 539 (responding party still has duty to respond to extent request not objectionable).  
11 Rule 34 requires a party (entity) respond whether it will agree to produce all  
12 documents within the possession, custody or control. The response is unclear because  
13 the term "and" is used to join possession, custody and control, rather than "or."  
14 Rutter, *supra*, ¶ 11:1915, states: "the response must state the extent to which the  
15 responding party is willing to comply and the extent to which it is unable or unwilling  
16 to comply. Ambiguity about these matters often leads to unnecessary motions to  
17 compel and sanctions." See, above, for Plaintiff's concerns from *De Amaral, supra*.

18 After the Protective Order was entered on July 7, 2016, Defendant produced  
19 what appears to be an annotated copy of the FDCPA statutory text and marked it  
20 "confidential." Plaintiff's counsel disputed the designation, met and conferred with  
21 counsel, who never filed a motion to designate the document confidential, thus the  
22 designation of confidential of those pages has been lifted. Nevertheless, Plaintiff is  
23 unclear whether or not other documents might be produced at a later time or if  
24 documents have been withheld, as they were in *De Amaral, supra*. Thus, not only  
25 should the court grant the motion to compel production of all responsive documents  
26 and to amend the response to comply with Rule 34, and overrule (or strike) the  
27 objections, but the court should require Defendant and its counsel to pay Plaintiff's  
28

1 attorney's fees, pursuant to Rule 37(a)(5), for interposing meritless and improper  
2 objections to discovery.

3  
4 Responding party's contentions and points and authorities

5 (Please provide this information within 7 days of receipt of this stipulation)  
6

7  
8 V. Affirmative defense of bona fide error  
9

10 A. Interrogatory No. 15  
11

12 Verbatim request

13 Describe YOUR maintenance of procedures reasonably adapted to avoid  
14 violation of the FDCPA or the RFDCPA.  
15

16 Verbatim response

17 Objection. The interrogatory is overly broad, unduly burdensome and  
18 harassing. The interrogatory calls for information which is not relevant and not  
19 reasonably calculated to lead to the discovery of admissible evidence regarding  
20 Plaintiff's claims and Defendant's defenses. Subject to and without waiving said  
21 objections, Defendant responds as follows:

22 With regards to Plaintiff's allegation that Defendant violated the FDCPA and  
23 the Rosenthal Act when it misrepresented the status and involvement of the original  
24 creditor, Chase Manhattan Bank, in its September 9, 2015 letter, Defendant responds  
25 as follows:

26 When Defendant's employee wants to send a letter to a consumer, the  
27 following steps are taken: the employee pulls up the consumer's account in  
28 Defendant's computer system; the employee enters a code for the letter the employee

1 wants to send (a code is assigned to each of Defendant's letters); the employee  
2 presses a "merge" button which causes information related to a consumer, including  
3 information related to the debt, to be automatically entered into various fields in the  
4 letter; the employee then presses a "print" button and the letter is printed with the  
5 consumer's information; the employee verifies the case information, including names  
6 of parties; the employee signs the letter and arranges for it to be sent to the consumer.  
7 Defendant advises and trains its employees that they cannot make any changes to the  
8 letter after the employee presses the "merge" button unless he or she first speaks with  
9 a supervisor and the supervisor approves the change(s) to the letter. Defendant  
10 regularly trains its employees to follow the above procedures.

11 For accounts Defendant receives from its debt buyer clients, Defendant's policy  
12 and procedure is to sue in the name of the debt buyer client, and not the name of the  
13 original creditor. In these situations, when the employee presses the "merge" button  
14 to create a letter to a consumer, the debt buyer's name is automatically entered as the  
15 plaintiff's name in the "Re" line.

16 In the present action, Defendant received Plaintiff's account from Regreso.  
17 Regreso is a debt buyer. Based on Defendant's policy and procedure, when the  
18 September 9, 2015 letter was created (after the "merge" button was pressed), Regreso  
19 was automatically identified as the plaintiff. However, unbeknownst to Defendants,  
20 Defendant's employee then manually changed the plaintiff's name from Regreso to  
21 Chase Manhattan Bank. Defendant's employee made this change without first  
22 speaking with a supervisor and without first obtaining a supervisor's approval.  
23 Defendant alleges that as a result of its employee manually changing the plaintiff's  
24 name from Regreso to Chase Manhattan Bank, it unintentionally and mistakenly  
25 misrepresented the status and involvement of the original creditor, Chase Manhattan  
26 Bank, in its September 9, 2015 letter to Plaintiff. The error occurred due to the failure  
27 of Defendant's employee to follow Defendant's policy and procedure of speaking  
28 with a supervisor and obtain supervisor approval for the name change in the letter,

1 failing to identify Regreso as the plaintiff in the September 9, 2015 letter and failing  
2 to verify the case information, including names of parties, before the letter was sent.

3 With regards to Plaintiff's allegation that Defendant violated the FDCPA and  
4 the Rosenthal Act when it sought a renewal of the judgment during a time that  
5 Regreso was suspended by the California Secretary of State, Defendant responds as  
6 follows:

7 Defendants' policy and procedure is to rely on their clients' representation that  
8 the clients are in good standing with the California Secretary of State. Clients  
9 represent to Goldsmith & Hull that they are in good standing. If there is any issue in  
10 this regard, then Goldsmith & Hull asks their clients to provide proof. Typically  
11 either Michael Goldsmith or Jack Hull (now deceased) would be involved in this  
12 process.

13  
14 Moving party's contentions and points and authorities

15 Objections of not relevant, not reasonably calculated to lead to the discovery  
16 of admissible evidence, overly broad, unduly burdensome and harassing each lack  
17 merit, are merely boilerplate, and not specific. *Mancia, supra*; *Beach v. City of*  
18 *Olathe, Kans.* 203 F.R.D. 489, 497 (D. Kan. 2001). Also, they are waived by  
19 answering "subject to . . . said objections." *Communications Co., L.P. v. Comcast*  
20 *Cable Communications, LLC, supra*. The old boilerplate of "not reasonably  
21 calculated to lead" is no longer the standard in FRCP Rule 26(b)(1). "The former  
22 provision for discovery of relevant but inadmissible information that appears  
23 'reasonably calculated to lead to the discovery of admissible evidence' is also deleted.  
24 The phrase has been used by some, incorrectly, to define the scope of discovery. As  
25 the Committee Note to the 2000 amendments observed, use of the 'reasonably  
26 calculated' phrase to define the scope of discovery 'might swallow any other  
27 limitation on the scope of discovery.'" Fed. R. Civ. P. 26. Advisory Committee Notes  
28 2015 Amendment.



1 Despite being made aware during meet and confer of the foregoing authorities  
2 (as stated in interrogatory 10, Moving Party's Contentions and P&As), Defendant's  
3 refusal to withdraw the objections and answer this interrogatory without objection has  
4 resulted in this motion. There was no justification given by Defendant's counsel  
5 during the meet and confer for not withdrawing the objections and responding, per  
6 the meet and confer. During meet and confer, Plaintiff agreed to limit defendant's  
7 response to the procedures that would have prevented the violations alleged in the  
8 complaint. It is unclear what (if any) information Defendant has failed to state under  
9 the objections, as explained in *Ramirez v. County of Los Angeles*, *supra*, 231 F.R.D.  
10 at 410. See, above, for Plaintiff's concerns from *De Amaral*, *supra*.

11 This is probative on Defendant's bona fide error (BFE) defense alleged in the  
12 amended answer to complaint. Particular instructive is the Ninth Circuit's *Reichert*  
13 *v. Nat'l Credit Sys., Inc.*, 531 F.3d 1002, 1006 (9th Cir. 2008), *quoting Johnson v*  
14 *Riddle*, 443 F.3d 723, 729 (10th Cir. 2006), which stated: "As the text of § 1692k(c)  
15 indicates, the procedures component of the bona fide error defense involves a  
16 two-step inquiry: first, whether the debt collector 'maintained'-i.e., actually employed  
17 or implemented-procedures to avoid errors; and, second, whether the procedures were  
18 'reasonably adapted' to avoid the specific error at issue." Thus, this interrogatory is  
19 relevant and the objections based on relevance or scope of discovery are meritless.

20 The allegations in the complaint cover three types of errors of which this  
21 answer addresses only two, with no analysis as to the form letter (Complaint, Exhibit  
22 A) referring to a wage assignment order, when no such order was entered in the state  
23 collection case. The response is not a full answer, contrary to Rule 33(b)(3).

24 Thus, not only should the court grant the motion to compel a further response  
25 and overrule (or strike) the objections, but the court should require Defendant and its  
26 counsel to pay Plaintiff's attorney's fees, pursuant to Rule 37(a)(5), for interposing  
27 meritless and improper objections to valid discovery requests.  
28



Responding party's contentions and points and authorities

(Please provide this information within 7 days of receipt of this stipulation)

B. Request for Production of Documents Nos. 39, 53

1. Document Demand 39

Verbatim request

All DOCUMENTS relating to the maintenance of procedures by any named defendant to ensure compliance with and to avoid violation of the FDCPA or to create a bona fide error defense.

Verbatim response

Objection. The request is overly broad, unduly burdensome and harassing. The request calls for confidential and proprietary information and calls for information which is not relevant and not reasonably calculated to lead to the discovery of admissible evidence regarding Plaintiff's claims and Defendant's defenses. Subject to and without waiving said objections, Defendant responds as follows: Once an appropriate protective order is entered, all non-privileged documents which are within Defendant's possession, custody and control and which relate to Plaintiff's claims and Defendant's defenses will be produced.

Moving party's contentions and points and authorities

Objections of not relevant, not reasonably calculated to lead to the discovery of admissible evidence, confidential, proprietary, overly broad, unduly burdensome and harassing each lack merit, are merely boilerplate, and not specific. *Mancia, supra; Beach v. City of Olathe, Kans.* 203 F.R.D. 489, 497 (D. Kan. 2001). Also, they are waived by answering "subject to . . . said objections." *Communications Co., L.P.*

1 v. *Comcast Cable Communications, LLC, supra*. The old boilerplate of “not  
2 reasonably calculated to lead” is no longer the standard in FRCP Rule 26(b)(1). “The  
3 former provision for discovery of relevant but inadmissible information that appears  
4 ‘reasonably calculated to lead to the discovery of admissible evidence’ is also deleted.  
5 The phrase has been used by some, incorrectly, to define the scope of discovery. As  
6 the Committee Note to the 2000 amendments observed, use of the ‘reasonably  
7 calculated’ phrase to define the scope of discovery ‘might swallow any other  
8 limitation on the scope of discovery.’” Fed. R. Civ. P. 26. Advisory Committee Notes  
9 2015 Amendment.

10 This response, “notwithstanding the objections,” is improper, as the response  
11 must either be that the document production “will be permitted as requested” or the  
12 objections. *Aikens v. Deluxe Fin'l Services, Inc., supra*, 217 F.R.D. at 539  
13 (responding party still has duty to respond to extent request not objectionable). Rule  
14 34 requires a party (entity) respond whether it will agree to produce all documents  
15 within the possession, custody or control. The response is unclear because the term  
16 “and” is used to join possession, custody and control, rather than “or.” Rutter, *supra*,  
17 ¶ 11:1915, states: “the response must state the extent to which the responding party  
18 is willing to comply and the extent to which it is unable or unwilling to comply.  
19 Ambiguity about these matters often leads to unnecessary motions to compel and  
20 sanctions.” See, above, for Plaintiff’s concerns from *De Amaral, supra*.

21 Despite being made aware during meet and confer of the foregoing authorities  
22 (as stated in interrogatory 10, Moving Party’s Contentions and P&As), Defendant’s  
23 refusal to withdraw the objections and answer this interrogatory without objection has  
24 resulted in this motion. There was no justification given by Defendant’s counsel  
25 during the meet and confer for not withdrawing the objections and responding, per  
26 the meet and confer. During meet and confer, Plaintiff agreed to limit defendant’s  
27 response to the procedures that would have prevented the violations alleged in the  
28 complaint.

1 This is probative on Defendant's bona fide error (BFE) defense alleged in the  
2 amended answer to complaint. Particular instructive is the Ninth Circuit's *Reichert*  
3 *v. Nat'l Credit Sys., Inc.*, 531 F.3d 1002, 1006 (9th Cir. 2008), *quoting Johnson v*  
4 *Riddle*, 443 F.3d 723, 729 (10th Cir. 2006). Thus, not only should the court grant the  
5 motion to compel a further response, document production, and overrule (or strike)  
6 the objections, but the court should require Defendant and its counsel to pay  
7 Plaintiff's attorney's fees, pursuant to Rule 37(a)(5), for interposing meritless and  
8 improper objections to valid discovery requests.

9  
10 Responding party's contentions and points and authorities

11 (Please provide this information within 7 days of receipt of this stipulation)  
12

13 2. Document Demand 53

14  
15 Verbatim request

16 All DOCUMENTS on which you base the bona fide error defense, as alleged  
17 in RESPONDING PARTY's amended answer to complaint.  
18

19 Verbatim response

20 All non-privileged documents which are within Defendant's possession,  
21 custody and control will be produced.  
22

23 Moving party's contentions and points and authorities

24 The response states: "All *non-privileged* documents which are within  
25 Defendant's possession, custody and control will be produced." No privilege log was  
26 produced, so Plaintiff cannot evaluate what documents have been withheld based on  
27 "privilege." It is unclear what (if any) documents or information Defendant has  
28 withheld, as explained in *Ramirez v. County of Los Angeles, supra*, 231 F.R.D. at 410.

1 Rule 34 requires a party (entity) to respond whether it will agree to produce all  
2 documents within the possession, custody or control. The amended response is  
3 unclear because the term “and” is used to join possession, custody and control, rather  
4 than “or.” Rutter, *supra*, ¶ 11:1915, states: “the response must state the extent to  
5 which the responding party is willing to comply and the extent to which it is unable  
6 or unwilling to comply. Ambiguity about these matters often leads to unnecessary  
7 motions to compel and sanctions.” See, above, for Plaintiff’s concerns from  
8 *De Amaral, supra*.

9 This is probative on Defendant’s bona fide error (BFE) defense alleged in the  
10 amended answer to complaint. Particular instructive is the Ninth Circuit’s *Reichert*  
11 *v. Nat’l Credit Sys., Inc.*, 531 F.3d 1002, 1006 (9th Cir. 2008). Thus, not only should  
12 the court grant the motion to compel a further response and document production, but  
13 the court should require Defendant and its counsel to pay Plaintiff’s attorney’s fees,  
14 pursuant to Rule 37(a)(5) for refusing to amend following meet and confer.

15  
16 Responding party’s contentions and points and authorities

17 (Please provide this information within 7 days of receipt of this stipulation)  
18  
19

20 Dated: September 13, 2016

HORWITZ, HORWITZ & ASSOC.  
CONSUMER LAW OFFICE OF  
ROBERT STEMPLER, APC

21  
22  
23  
24 By: Robert Stempler,  
25 Co-Counsel for Plaintiff and  
26 Moving/Requesting Party

27 Dated: September 13, 2016

28 LEWIS BRISBOIS BISGAARD &  
SMITH LLP

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

By: LARISSA G. NEFULDA,  
STEPHEN H TURNER  
Counsel for defendant and  
Opposing/Responding Party  
GOLDSMITH & HULL, APC

TABLE OF EXHIBITS

1. Plaintiff's complaint
2. Second Amended Answer to Complaint of Defendants G&H and William I. Goldsmith
3. First Amended Answer to Complaint of Defendant Regreso
4. Declaration of Robert Stempler in Support of Motion to Compel
5. Declaration of Larissa Nefulda in Opposition to Motion to Compel
6. Printout pertaining to Plaintiff from G&H's computer collection system
7. Scheduling and Case Management Order re Jury Trial (Dkt. # 31)
8. Amended Scheduling and Case Management Order re Jury Trial (Dkt. # 35)
9. Order Amending Scheduling And Case Management Order And Order re Motions for Class Certification [DKT. 35, 36] (Dkt. # 56)

Robert Stempler, Cal. Bar No. 160299  
Email: Robert@StopCollectionHarassment.com  
CONSUMER LAW OFFICE OF  
ROBERT STEMPLER, APC  
P.O. Box 7145; Oxnard, CA 93031-7145  
Telephone (805) 246-2300  
Fax: (805) 576-7800

O. Randolph Bragg, Attorney Admitted *Pro Hac Vice*  
Email: rand@horwitzlaw.com  
HORWITZ, HORWITZ & ASSOCIATES  
25 East Washington Street, Suite 900; Chicago, IL 60602  
Telephone (312) 372-8822  
Facsimile (312) 372-1673

Counsel for Plaintiff-Moving Party

LEWIS BRISBOIS BISGAARD & SMITH LLP  
STEPHEN H. TURNER, SB# 89627  
E-Mail: Stephen.Turner.lewisbrisbois.com  
LARISSA G. NEFULDA, SB# 201903  
E-Mail: Larissa.Nefulda.lewisbrisbois.com  
633 West 5<sup>th</sup> Street, Ste. 4000  
Los Angeles, CA 90071  
Telephone: 213.250.1800  
Facsimile: 213.250.7900

Attorneys for Defendants-Opposing Parties,  
GOLDSMITH & HULL, APC and WILLIAM I. GOLDSMITH

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

POVILAS KARCAUSKAS,  
on behalf of himself and all  
others similarly situated,

Plaintiff,

vs.

REGRESO FINANCIAL  
SERVICES LLC; et al.;

Defendants.

Case No. 2:15-cv-09225-FMO-RAOx

JOINT STIPULATION OF COUNSEL ON  
PLAINTIFF POVILAS KARCAUSKAS'  
MOTION TO COMPEL FURTHER  
RESPONSES AND DOCUMENT  
PRODUCTION FROM WILLIAM I.  
GOLDSMITH TO (1)  
INTERROGATORIES; (2) REQUESTS  
FOR ADMISSION; AND (3) REQUESTS  
FOR PRODUCTION OF DOCUMENTS

Discovery Cutoff Date: 12/07/2016  
Class Cert. Motion Deadline: 04/20/2017  
Pretrial Conference & Trial Date: Not set.



TABLE OF CONTENTS

Plaintiff-Moving Party's Introductory Statement

Defendant-Opposing Party's Introductory Statement

JOINT STIPULATION

I. Terms (all in UPPERCASE) and Instructions in Plaintiff's sets of discovery

II. Numerosity of the L4AR form letters sent to California addressees since  
November 30, 2014

A. Interrogatories No. 10

Verbatim request

Verbatim response

Moving party's contentions and points and authorities

Authorities re: Response Notwithstanding Objections Waives the Objections

Objections Must be Stated with Sufficient Specificity

Authorities re: Irrelevant, Beyond Scope, Overly Broad, Unduly Burdensome, and  
Relevance

Authorities re: Unduly Burdensome, Overbearing, Duplicative

Authorities re: Vague, Ambiguous, Unintelligible

Authorities re: Unspecified "Privilege" Without a Privilege Log

Authorities re: Witness Names, Addresses and Telephone Numbers

Responding party's contentions and points and authorities

B. Document Demands No. 13

Verbatim request

Verbatim response

Moving party's contentions and points and authorities

1 Responding party's contentions and points and authorities

2  
3 III. Net Worth of G&H for purposes of FDCPA & RFDCPA class damages

4  
5 A. Interrogatories Nos. 18, 20

6 1. Interrogatory 18

7 Verbatim request

8 Verbatim response

9 Moving party's contentions and points and authorities

10 Authorities re: Defendant's Net Worth and Financial Statements

11 Authorities re: Available Information and Documents

12 Responding party's contentions and points and authorities

13 2. Interrogatory 20

14 Verbatim request

15 Verbatim response

16 Moving party's contentions and points and authorities

17 Responding party's contentions and points and authorities

18  
19 B. Document Demands Nos. 43, 44

20 1. Document Demand 43

21 Verbatim request

22 Verbatim response

23 Moving party's contentions and points and authorities

24 Responding party's contentions and points and authorities

25 2. Document Demand 44

26 Verbatim request

27 Verbatim response

28 Moving party's contentions and points and authorities

Responding party's contentions and points and authorities

C. Request for Admission No. 79

Verbatim request

Verbatim response

Moving party's contentions and points and authorities

Responding party's contentions and points and authorities

IV. Approval and use of the L4AR form letters sent to consumers in California

A. Document Demands Nos. 20, 27, 34

1. Document Demand 20

Verbatim request

Verbatim response

Moving party's contentions and points and authorities

Responding party's contentions and points and authorities

2. Document Demand 27

Verbatim request

Verbatim response

Moving party's contentions and points and authorities

Responding party's contentions and points and authorities

3. Document Demand 34

Verbatim request

Verbatim response

Moving party's contentions and points and authorities

Responding party's contentions and points and authorities

V. Affirmative defense of bona fide error

A. Interrogatory No. 15

1 Verbatim request

2 Verbatim response

3 Moving party's contentions and points and authorities

4 Responding party's contentions and points and authorities

5  
6 B. Document Demands No. 39

7 Verbatim request

8 Verbatim response

9 Moving party's contentions and points and authorities

10 Responding party's contentions and points and authorities

11  
12 TABLE OF EXHIBITS

1 Pursuant to Local Civil Rule 37-2 et seq., counsel for the parties indicated  
2 above submit the attached Joint Stipulation for Plaintiff's motion to compel further  
3 responses and document production from defendant GOLDSMITH & HULL, APC  
4 (referred to as "G&H") and from defendant WILLIAM I. GOLDSMITH (referred to  
5 as "Goldsmith") (referred to collectively as "Defendants") to Plaintiff's written  
6 discovery requests consisting of: (1) interrogatories, (2) requests for admission, and  
7 (3) requests for production of documents. Responding party in this motion is  
8 Defendant Goldsmith. Defendant Regreso Financial Services, LLC is referred to  
9 simply as "Regreso" is not a part of this motion.

10 Plaintiff also seeks an award of attorney's fees, pursuant to rule 37(a)(5) of the  
11 Federal Rules of Civil Procedure, against the responding party and his counsel.

Plaintiff-Moving Party's Introductory Statement

Plaintiff requests an order of the Court compelling Goldsmith to provide (1) electronic records which indicate any letters sent to debtors in the form of Exhibit A in order that the records may be searched to determine numerosity and (2) financial documents in order to determine Defendants' net worth for computing statutory damages under the FDCPA. Defendants assert that they don't have the information or refuse to conduct a manual search of their records to provide information for numerosity. Defendants objected to discovery related to their net worth.

Plaintiff's complaint alleges a class action under the Fair Debt Collection Practices Act, 15 U.S.C. § 1692, *et seq.* ("FDCPA") and the California Rosenthal Fair Debt Collection Practices Act, Cal. Civil Code § 1788.10, *et seq.* ("RFDCPA") for the written communications to Plaintiff and members of the class (see complaint's Exhibits A, B, C and D). In particular, Exhibit A attached to Plaintiff's complaint misrepresented, contrary to FDCPA §§ 1692e, 1692e(2)(A), and 1692e(10), the status and involvement of the alleged original creditor, Chase Manhattan Bank. Also, Exhibit A misrepresented, contrary to FDCPA §§ 1692e, 1692e(2)(A), 1692e(5), and 1692e(10), that the collection case included "the wage assignment as ordered by the Court," though there was no wage assignment order pending in the case.

In their amended answers to complaint, Goldsmith admits his status as a debt collection agency or debt collector, subject to the FDCPA and the subject matter jurisdiction of this court for this case; G&H admitted it is subject to the FDCPA and RFDCPA as a debt collection agency. Also, the defendants admit in their answer to complaint that Regreso was suspended by the Cal. Secretary of State from April 2, 2015 through July 14, 2015 and that Chase Manhattan Bank was not their client and that letters sent to Plaintiff misstate the case was improperly styled as "Chase Manhattan Bank" as the judgment creditor in the California Superior Court. In their answer to complaint, the defendants deny violating any section of the FDCPA and the RFDCPA and deny each of the allegations for class certification. Defendants assert

1 the bona fide error defense, which the District Judge did not strike, following  
2 Plaintiff's motion to strike the affirmative defense.

3 Despite specific requests for the class size or the number of letters sent in the  
4 form of Exhibit A, the defendants have failed and refused to produce that information  
5 or documentation and refuse to search their records for all persons sent Exhibit A.  
6 Rule 23(a)(1) of the Federal Rules of Civil Procedure requires that the class be "so  
7 numerous that joinder of all members is impracticable." *Gay v. Waiters and Dairy*  
8 *Lunchmen's Union*, 549 F.2d. 1330 (9th Cir. 1977). Defendants also refused to  
9 produce their financial information, though the basis to compute the statutory  
10 damages under the FDCPA is 1% and under the RFDCPA is also 1% of a defendant's  
11 net worth. Defendants have stated that six individuals were the subject of the  
12 deceptive communications in the form of Exhibits B, C and D.

13 With their responses to sets 1 and 2, Defendants G&H and Goldsmith produced  
14 only a copy of their insurance policies (Bates Nos. GH 01-40) and the entire file from  
15 the collection case against Plaintiff (Bates Nos. GH 41-164) regarding California  
16 Superior Court in Sonoma County. After entry of the stipulated protective order,  
17 Defendants G&H and Goldsmith produced only a copy of the FDCPA (Bates Nos.  
18 GH 165-189) and Bates Nos. GH 190 thru 200, which Defendants designated as  
19 confidential, but which Plaintiff disputed on July 14, 2016, as it was merely part of  
20 an FDCPA "Consumer Compliance Handbook." G&H produced a redacted copy of  
21 G&H's financial statement for 2014/2015 as Bates Nos. GH 201-4 subject to the  
22 Protective Order and G&H's collection files for Plaintiff as Bates Nos. GH 205-222.)

23 This stipulation is organized by subject matter, as many of the interrogatories,  
24 requests for admission, and document demands correspond by particular subjects, as  
25 follows: (I) definitions applicable to the items in dispute, (II) numerosity of class  
26 members, (III) responding party's net worth, (IV) approval and use of form letters,  
27 (V) the defendants' affirmative defense of bona fide error.



1 Many general and boilerplate objections were asserted by the defendants to  
2 Plaintiff's discovery. Plaintiff's counsel has had two rounds of meet and confer letters  
3 and telephone conversations with defendants' counsel as to sets 1 and 2, which has  
4 resulted in partly amended responses, as stated below. Many of the objections have  
5 been withdrawn, yet many of the requests have not been answered completely and  
6 responsive documents have been withheld improperly.

7 Previous litigation involving defendant Goldsmith & Hull, APC, reveals that  
8 defendant G&H (including Goldsmith, as its attorney) used form objections to  
9 improperly withhold documents from production. *De Amaral v. Goldsmith & Hull,*  
10 *APC*, Case No. 12-cv-03580-WHO, 2014 WL 572268, \*3 (N.D. Cal., Feb. 11, 2014)  
11 [*"De Amaral"*] [*"Suffice it to say, the defendants show a stark misunderstanding of*  
12 *their obligations in discovery. . . . Defendants objected to the request for being,*  
13 *among other things, burdensome and harassing, and later said that after a reasonable*  
14 *search and diligent inquiry no documents were known to exist other than ones that*  
15 *were produced."*]. This misconduct appears to be a legitimate concern in the instant  
16 case, in which defendant has interposed improper/boilerplate objections, failed to  
17 comply with the duty to search for responsive documents (including ESI), given  
18 responses that fail to comply with the FRCP, and failed to serve a privilege log.

19 Accordingly, this motion to compel is needed, for which Plaintiff also seeks  
20 an award of attorney's fees as part of the order, per FRCP Rule 37(a)(5), as each of  
21 Plaintiff's meet and confer letters indicated not only the relevant rules and case law  
22 applicable to the disputed items, but also the rules applicable to monetary sanctions  
23 for the continued assertion of meritless objections and the responding party's refusal  
24 to provide: (a) non-evasive complete responses, (b) agreement to produce all  
25 responsive documents, (c) complete document production, and (d) a privilege log.  
26 In particular, Plaintiff needs defendant to completely answer interrogatories and  
27 produce documents that identify the persons to whom G&H sent the form letter of  
28 Exhibit A (for numerosity) and each defendant's net worth (for statutory damages).

Defendant-Opposing Party's Introductory Statement

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

JOINT STIPULATION

I. Terms (all in UPPERCASE) defined and instructions re privilege for the  
discovery in dispute

Definitions

“DOCUMENT” or “DOCUMENTS” means and includes every means of recording upon any tangible thing any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combinations thereof, including any handwriting, typewriting, printing, photostating, photographing, and/or any other means of communication.

“PERSON” or “PERSONS” means and includes any man, woman, individual, auctioneer, corporation, organization, association, partnership, firm, joint venture, governmental body, agency, governing board, department, division, trust, business trust, or any other entity.

“EMPLOYEE” or “EMPLOYEES” means and includes any and all current and former employees, managers, agents, and “in-house” attorneys of an organization.

“FDCPA” refers to the Fair Debt Collection Practices Act, 15 U.S.C. §§ 1692-1692o.

“RFDCPA” refers to the Rosenthal Fair Debt Collection Practices Act, Cal. Civil Code § 1788.10 *et seq.*

“YOU” or “YOUR” means and includes RESPONDING PARTY and RESPONDING PARTY’s EMPLOYEES. If “you(r)” is not capitalized, then it shall be limited to and mean the RESPONDING PARTY only.

“COMMUNICATION” means and includes written correspondence, recordings, and state court pleadings.

“RESPONDING PARTY” means WILLIAM I. GOLDSMITH.

“PLAINTIFF” means POVILAS KARCAUSKAS.

“REGRESO” means Regreso Financial Services LLC.

“G&H” means Goldsmith & Hull, APC.

1 “COMPLAINT” means PLAINTIFF’s complaint in this matter.

2 “EXHIBIT A” means Exhibit A attached to the COMPLAINT.

3 “EXHIBIT B” means Exhibit B attached to the COMPLAINT.

4 “EXHIBIT C” means Exhibit C attached to the COMPLAINT.

5 “EXHIBIT D” means Exhibit D attached to the COMPLAINT.

6 “DEBT” means the purported obligation referenced in EXHIBIT A.

7 “CONSUMER” has the same meaning as defined in the FDCPA.

8  
9 Instructions re Privilege

10 Production of Documents. In the event that any DOCUMENT called for by this  
11 request is withheld on the basis of a claim of privilege, please identify that  
12 DOCUMENT by stating its author(s), addressee(s), indicated or blind copy  
13 recipient(s), date, subject matter, number of pages, attachments or appendices, all  
14 PERSONS to whom distributed, shown or explained, present custodian, and the  
15 nature of the claimed privilege. Such information is sometimes referred to as a  
16 “Privilege Log.”

17 Interrogatories. If you decline to respond to any interrogatory in whole or in  
18 part because of a claim of privilege, please: (a) identify the subject matter, type (e.g.,  
19 letter, memorandum), date, and author of the privileged communication or  
20 information, all persons that prepared or sent it, and all recipients or addressees; (b)  
21 identify each person to whom the contents of each such communication or item of  
22 information have heretofore been disclosed, orally or in writing; (c) state what  
23 privilege is claimed; and (d) state the basis upon which the privilege is claimed.

II. Numerosity of the L4AR form letters sent to California addressees since  
November 30, 2014

A. Interrogatories No. 10  
Verbatim Request

For each letter in the form of Exhibit A mailed at any time on or after  
November 30, 2014, state the total number, names and addresses of persons in  
California.

Verbatim response

Objection. The interrogatory is overly broad, unduly burdensome, harassing,  
vague and ambiguous. The interrogatory calls for information which is not relevant  
and not reasonably calculated to lead to the discovery of admissible evidence  
regarding Plaintiff's claims and Defendant's defenses. The interrogatory calls for  
confidential and private information and violates the right to privacy of third parties.  
Subject to and without waiving said objections, Defendant responds as follows: Aside  
from Exhibit A, Defendant is not aware of any letter that Defendant sent where the  
original creditor was listed as plaintiff incorrectly as opposed to the debt buyer.

Moving party's contentions and points and authorities

Objections of not relevant, not reasonably calculated to lead to the discovery  
of admissible evidence, overly broad, unduly burdensome, harassing, confidential,  
private, and third party privacy lack merit, are merely boilerplate and not specific.  
*Mancia, supra*; *Beach v. City of Olathe, Kans.* 203 F.R.D. 489, 497 (D. Kan. 2001).  
The old boilerplate of "not reasonably calculated to lead" is no longer the standard  
in FRCP Rule 26(b)(1). Also, these objections are waived by answering "subject to  
... said objections." *Communications Co., L.P. v. Comcast Cable Communications,*  
*LLC, supra*. The intent of this interrogatory is to get the total number of collection

1 letters sent to persons in California for purposes of obtaining the number of class  
2 members in connection with Plaintiff's motion for class certification, which requires  
3 numerosity be stated in the motion. It also seeks each person's name and address.  
4 "The disclosure of names, addresses, and telephone numbers is a common practice  
5 in the class action context." *Artis v. Deere & Co.*, 276 F.R.D. 348, 352–53 (N.D. Cal.  
6 2011). The answer to this interrogatory is appropriate for numerosity and probative  
7 on this issue of commonality. Rule 23(a)(1) of the Federal Rules of Civil Procedure  
8 requires that the class be "so numerous that joinder of all members is impracticable."  
9 *Gay v. Waiters and Dairy Lunchmen's Union*, 549 F.2d. 1330 (9th Cir. 1977).

10 Moreover, the stated answer ("subject to . . . said objections") is false in that  
11 it states that Defendant can identify only one letter as having been sent. In fact,  
12 Defendant sent two form letters directly to Plaintiff according to Defendant's internal  
13 collection records, a copy of which is attached here as Exhibit 6, which shows that  
14 an L4AR form letter has been sent to Plaintiff dated September 9, 2015 as well as  
15 January 4, 2016. In fact, Plaintiff received both form letters. Thus, Defendant has  
16 given false discovery responses in this case, as G&H did in *De Amaral, supra*.

17 During the meet and confer attempts to get Defendant to amend, Plaintiff  
18 proposed to limit the answer to all persons in California to whom the form letter was  
19 sent for any debt buyer client (Defendant's phrase) in which the original creditor was  
20 falsely listed as the plaintiff, rather than the correct debt buyer's name, but Defendant  
21 did not amend and would not agree to any amendments, nor would Defendant agree  
22 to withdraw any of the objections asserted. During the meet and confer process,  
23 Plaintiff advised Defendant's counsel of the following citations that apply here,  
24 which Plaintiff submits also in support of this motion to compel further response:  
25  
26  
27  
28

Authorities re: Response Notwithstanding Objections Waives the Objections

The court, in *Sprint Communications Co., L.P. v. Comcast Cable Communications, LLC*, Nos. 11–2684, 11–2685, 11–2686, 2014 WL 545544, \*2-3 (D. Kan., Feb. 11, 2014), citing *Haeger v. Goodyear Tire & Rubber Co.*, 906 F.Supp.2d 938, 976-77 (D.Ariz. 2012):

The court recognizes that it has become common practice among many practitioners to respond to discovery requests by asserting objections and then answering “subject to” or “without waiving” their objections. This practice, however, is manifestly confusing (at best) and misleading (at worse), and has no basis at all in the Federal Rules of Civil Procedure. The court joins a growing number of federal district courts in concluding that such conditional answers are invalid and unsustainable.

....

In addition to their failure to convey any information, conditional responses are not permitted by the Federal Rules of Civil Procedure. Rule 34(b)(2) permits only three responses to a request for production of documents: produce the documents as requested, “state an objection to the request” as a whole, or state an “objection to part of [the] request” provided that the response specifies the part objected to and responds to the non-objectionable portion. [footnote omitted] “Objecting but answering subject to the objection is not one of the allowed choices under the Federal Rules.” [footnote omitted] Thus, no objections maybe “reserved” under the rules; “they are either raised or they are waived.” [footnote omitted]



1           Finally, courts have recognized that conditional responses violate  
2 common sense. In *Haeger v. Goodyear Tire and Rubber Co.*, U.S.  
3 District Judge Roslyn O. Silver of the District of Arizona concluded that  
4 if Rule 34 were read to allow parties to combine objections with a partial  
5 response that does not specify whether other potentially responsive  
6 material is being withheld, “discovery would break down in practically  
7 every case.” [footnote omitted] Judge Silver explained,

8           A litigant with any viable objection to a discovery request would  
9 make that objection and then produce whatever portion of otherwise  
10 responsive documents it wished to produce. Under this approach, a party  
11 would have no obligation to indicate that its production was partial and  
12 the opposing party would have no way of knowing the production was  
13 partial. Absent an indication of what, exactly, the responding party was  
14 objecting to, courts would have no way of assessing the propriety of the  
15 objections. Instead, courts would be flooded with motions to compel by  
16 litigants seeking to confirm that undisclosed responsive documents did  
17 not exist. And courts would then be forced to ask counsel, over and over  
18 again, “Do other documents exist?” [footnote omitted]

19 . . . .

20           For these reasons, the court follows its sister courts in holding,  
21 “whenever an answer accompanies an objection, the objection is deemed  
22 waived and the answer, if responsive, stands.” [footnote omitted]

Objections Must be Stated with Sufficient Specificity

The Rutter Group treatise by James M. Wagstaffe, Cal. Practice Guide: Federal Civil Procedure Before Trial, Cal. & 9<sup>th</sup> Circuit Edition (Rutter Group Thomson Reuters Westlaw) [cited as “Rutter”], states (bolding and italics in treatise):

(4) [11:1733] **Sufficiency of objection:** All grounds for objection to an interrogatory must be stated “with specificity.” [FRCP 33(b)(4); see *Nagele v. Electronic Data Systems Corp.* (WD NY 2000) 193 FRD 94, 109—objection that interrogatories were “burdensome” overruled because objecting party failed to “particularize” basis for objection; see also *Mancia v. Mayflower Textile Services Co.* (D MD 2008) 253 FRD 354, 357—boilerplate objections waived any legitimate objections responding party may have had; *Deere v. American Water Works Co., Inc.* (SD IN 2015) 306 FRD 208, 215—“general objections are entitled to little if any weight”]

If required to make the objection understandable, the objecting party must state *reasons* for any objection. [See FRCP 33(b)(4); *Chubb Integrated Sys. Ltd. v. National Bank of Wash.* (D DC 1984) 103 FRD 52, 58—“irrelevant” did not fulfill party's burden to explain its objections]

Federal Rules of Civil Procedure rule 33(b)(4) states that “the grounds for objecting to an interrogatory must be stated with specificity.” The Ninth Circuit, in *Davis v. Fendler*, 650 F.2d 1154, 1160 (9th Cir. 1981), stated:

Moreover, objections should be plain enough and specific enough so that the court can understand in what way the interrogatories are alleged to be objectionable. Appellant never identified, with any specificity, the interrogatories to which the claim of privilege pertained. Appellant’s blanket claim of privilege is simply not sufficient.

1 The Eleventh Circuit, in *Panola Land Buyers' Association v. Sherman*, 762  
2 F.2d 1550, 1559 (11th Cir. 1985), stated:

3 To be adequate, objections which serve as the basis of a motion for  
4 protective order under Fed.R.Civ.P. 26 should be “plain enough and  
5 specific enough so that the court can understand in what way the  
6 interrogatories are alleged to be objectionable.” *Davis v. Fendler*, 650  
7 F.2d 1154, 1160 (9th Cir.1981). *See Josephs v. Harris Corp.*, 677 F.2d  
8 985 (3d Cir.1982) (quoting *Roesberg v. Johns-Manville Corp.*, 85  
9 F.R.D. 292, 296–97 (E.D.Pa.1980)) (“party resisting discovery ‘must  
10 show specifically how . . . each interrogatory is not relevant or how each  
11 question is overly broad, burdensome or oppressive....’ ”).

12  
13 In *Burns v. Imagine Films Entertainment Inc.*, 164 F.R.D. 589, 592-3  
14 (W.D.N.Y. 1996), the court stated:

15 Defendants also filed objections stating that the Discovery Request is  
16 overbroad, vague and unduly burdensome. However, these objections  
17 were not sufficiently specific to allow the court to ascertain the claimed  
18 objectionable character of the Discovery Request, further, this type of  
19 general objection is not proper. As objections to interrogatories must be  
20 specific and supported by detailed explanation of why the  
21 interrogatories are objectionable. *Roesberg v. Johns–Manville Corp.*, 85  
22 F.R.D. 292, 296–97 (E.D.Pa.1980) (to successfully object to an  
23 interrogatory, a defendant cannot simply state that the interrogatory is  
24 overly broad, burdensome, oppressive and irrelevant, rather, the party  
25 opposing discovery must specifically demonstrate how each  
26 interrogatory was overly broad, burdensome, oppressive or irrelevant).  
27 Additionally, the fact that answering the interrogatories will require the  
28 objecting party to expend considerable time, effort and expense

1 consulting, reviewing and analyzing “huge volumes of documents and  
2 information” is an insufficient basis to object. *Roesberg, supra*, at  
3 296–97. Therefore, Defendants did not meet their burden under Rule  
4 33(a) of making a specific showing of reasons why the interrogatories  
5 should not be answered or documents not produced where they merely  
6 made conclusory objections. Accordingly, these objections shall not  
7 prevent the Defendants from providing the information sought in the  
8 Discovery Request.

9  
10 In *Burns, supra*, 164 F.R.D. at 594, the district court stated:  
11 The party asserting the privilege and resisting discovery has the burden  
12 of establishing the existence of the privilege. Fed.R.Civ.P. 26(b)(5);  
13 *National Union Fire Insurance Company of Pittsburgh v. Midland*  
14 *Bancor, Inc.*, 159 F.R.D. 562, 567 (D. Kan.1994). See, e.g., *Fisher v.*  
15 *United States*, 425 U.S. 391, 96 S.Ct. 1569, 48 L.Ed.2d 39 (1976); *von*  
16 *Bulow by Auersperg v. von Bulow*, 811 F.2d 136, 144 (2d Cir.), cert.  
17 denied, 481 U.S. 1015, 107 S.Ct. 1891, 95 L.Ed.2d 498 (1987). Blanket  
18 assertions of privilege are insufficient to satisfy this burden. *National*  
19 *Union Fire, supra*, at 567. The party claiming the privilege must supply  
20 opposing counsel with sufficient information to assess the applicability  
21 of the privilege or protection, without revealing information which is  
22 privileged or protected. *First Savings Bank, F.S.B. v. First Bank System,*  
23 *Inc.*, 1995 WL 250394, \*4 (D.Kan.1995); *Johnson v. City of*  
24 *Philadelphia*, 1994 WL 665718, \*5 (E.D. Pa.1994).

The Responding Party Has the Burden To Provide Support for Each Objection

“The party who resists discovery has the burden to show that discovery should not be allowed, and has the burden of clarifying, explaining, and supporting its objections.” *Nadler v. Nature’s Way Products, LLC*, No. EDCV 13–100–TJH (KKx), 2014 WL 5761122, at \*2 (C.D. Cal. Nov. 5, 2014); *DirecTV, Inc. v. Trone*, 209 F.R.D. 455, 458 (C.D. Cal. 2002) *Oakes v. Halvorsen Marine Ltd.*, 179 F.R.D. 281, 283 (C.D. Cal. 1998).

Authorities re: Irrelevant, Beyond Scope, Overly Broad,  
Unduly Burdensome, and Relevance

FRCP Rule 26(b)(1) states:

**Scope in General.** Unless otherwise limited by court order, the scope of discovery is as follows: Parties may obtain discovery regarding any nonprivileged matter that is relevant to any party’s claim or defense and proportional to the needs of the case, considering the importance of the issues at stake in the action, the amount in controversy, the parties’ relative access to relevant information, the parties’ resources, the importance of the discovery in resolving the issues, and whether the burden or expense of the proposed discovery outweighs its likely benefit. Information within this scope of discovery need not be admissible in evidence to be discoverable.

The Court, in *A. Farber and Partners, Inc. v. Garber*, 234 F.R.D. 186, 188 (C.D. Cal. 2006), stated:

As an initial matter, general or boilerplate objections such as "overly burdensome and harassing" are improper--especially when a party fails to submit any evidentiary declarations supporting such

1 objections. *Paulsen v. Case Corp.*, 168 F.R.D. 285, 289  
2 (C.D.Cal.1996); *see also McLeod, Alexander, Powel & Apffel, P.C. v.*  
3 *Quarles*, 894 F.2d 1482, 1485 (5th Cir.1990) (objections that document  
4 requests were overly broad, burdensome, oppressive, and irrelevant were  
5 insufficient to meet objecting party's burden of explaining why  
6 discovery requests were objectionable); *Panola Land Buyers Ass'n v.*  
7 *Shuman*, 762 F.2d 1550, 1559 (11th Cir.1985) (conclusory recitations  
8 of expense and burdensomeness are not sufficiently specific to  
9 demonstrate why requested discovery is objectionable). [footnote  
10 omitted] Similarly, boilerplate relevancy objections, without setting  
11 forth any explanation or argument why the requested documents are not  
12 relevant, are improper.

13  
14 Rutter, *supra*, states (bolding and italics in treatise):

15 [11:1734] **Overbroad questions:** Where an interrogatory is  
16 overbroad, the responding party should answer whatever part of the  
17 question is proper, object to the balance and provide some *meaningful*  
18 *explanation* of the basis for the objection. [*Mitchell v. National R.R.*  
19 *Passenger Corp.* (D DC 2002) 208 FRD 455, 458, fn. 4; *St. Paul*  
20 *Reinsurance Co., Ltd. v. Commercial Fin'l Corp.* (ND IA 2001) 198  
21 FRD 508, 512--objections must explain how request or interrogatory is  
22 overbroad or unduly burdensome; *Gassaway v. Jarden Corp.* (D KS  
23 2013) 292 FRD 676, 682]

24 For example:

25 Interrogatory: "State the names of any doctors who treated you or  
26 *with whom you have consulted* regarding your injuries."

27 Response: "I was treated by Doctor Janet Jones. OBJECTED TO  
28 *insofar as this Interrogatory asks for* names of nontreating doctors



1 whom I may have consulted because their identities are protected as  
2 attorney work product.”

3  
4  
5 Authorities re: Unduly Burdensome, Overbearing, Duplicative

6 In *Biovail Labs. Inc. v. Anchen Pharmaceuticals, Inc.*, 233 F.R.D. 648, 651-652  
7 (C.D. Cal. 2006), the court stated:

8 “ ‘Generally, the purpose of discovery is to remove surprise from trial  
9 preparation so the parties can obtain evidence necessary to evaluate and  
10 resolve their dispute.’” *Moon v. SCP Pool Corp.*, 232 F.R.D. 633, 636  
11 (C.D.Cal.2005) (*quoting Oakes v. Halvorsen Marine Ltd.*, 179 F.R.D.  
12 281, 283 (C.D.Cal.1998)). “Toward this end, Rule 26(b) is liberally  
13 interpreted to permit wide-ranging discovery of information even though  
14 the information may not be admissible at the trial.” *Id.* (*citing Jones v.*  
15 *Commander, Kansas Army Ammunitions Plant*, 147 F.R.D. 248, 250  
16 (D.Kan.1993)). All discovery, and federal litigation generally, is subject  
17 to Rule 1, which directs that the rules “shall be construed and  
18 administered to secure the just, speedy, and inexpensive determination  
19 of every action.” Fed.R.Civ.P. 1; *Moon*, 232 F.R.D. at 636.

20  
21 “[T]he mere statement by a party that [an] interrogatory was overly broad,  
22 burdensome, oppressive and irrelevant is not adequate to voice a successful objection  
23 to an interrogatory.” *Josephs v. Harris Corp.*, 677 F.2d 985, 992 (3d Cir. 1982). In  
24 *Alexander v. Parsons*, 75 F.R.D. 536, 538-39 (W.D. Mich. 1977), the court held that  
25 discovery which would “require 2,000 man-hours of labor to search some 57,000  
26 records” would not support a protective order against such request.



1 The court, in *Chubb Integrated Systems v. Nat's Bank of Washington*, 103  
2 F.R.D. 52, 59-60 (D.D.C. 1984), stated:

3 Labelling plaintiff's effort as repetitious, does not support its  
4 objection. Standing alone, the fact that defendants conducted a search  
5 does not support plaintiff's claim of burdensomeness. An objection must  
6 show specifically how an interrogatory is overly broad, burdensome or  
7 oppressive, by submitting affidavits or offering evidence which reveals  
8 the nature of the burden. *See Roesberg v. Johns-Manville Corp.*, 85  
9 F.R.D. 292, 296-297 (E.D.Pa.1980); *see generally*, 4A J. Moore and J.  
10 Lucas, *Moore's Federal Practice* ¶ 33.27 (2d ed. 1983). Plaintiff's  
11 objections do not reveal the nature of its burden. Without more, this  
12 Court cannot conclude that Chubb will be unduly burdened by the  
13 interrogatories. Accordingly, we reject this argument.

14  
15 In *In re Folding Carton Antitrust Litigation*, 76 F.R.D. 417, 419 (N.D. Ill.  
16 1977), the court stated:

17 It should first be noted that the interrogatories are classic  
18 first-wave discovery. They seek information as to the identity of events  
19 and the individuals participating in them which is necessary as a prelude  
20 to second-wave depositions of the identified individuals. They are  
21 clearly within the scope of first-wave discovery previously delineated  
22 by the court.

23 Nor are they unduly burdensome. The more events and the more  
24 individuals involved, of course, the more burdensome answering the  
25 interrogatories will be. It can hardly be seriously contended, however,  
26 that the volume of possibly illegal activity at some point becomes so  
27 great as to make its disclosure unreasonably burdensome. The degree of  
28

1       burden will depend on the extent of the various defendants' activities  
2       and not on the interrogatories.

3  
4                   Authorities re: Vague, Ambiguous, Unintelligible

5  
6       Rutter, *supra*, states (bolding and italics in treatise):

7  
8       [11:1735] **Vague and ambiguous questions:** Objections to  
9       interrogatories as vague and ambiguous are not likely to be upheld.

10  
11       1) [11:1736] **Interpretation:** First of all, respondents must exercise  
12       reason and common sense to attribute ordinary definitions to terms and  
13       phrases utilized in interrogatories. If necessary, *they may include any*  
14       *necessary, reasonable definition* of such terms or phrases in order to  
15       clarify their answers. [*Pulsecard, Inc. v. Discover Card Services, Inc.* (D  
16       KS 1996) 168 FRD 295, 310]

17  
18       For example:

19               --'Interrogatory: Did you speak to anyone following the accident?

20               --'Answer: Treating the question as calling only for  
21       conversations at the scene of the accident (rather than at  
22       any other time or place after the accident), the answer is:  
23       NO.'

24       2) [11:1737] **Effort to clarify:** Moreover, where the  
25       ambiguity can easily be resolved by conferring with the  
26       propounding party, courts are likely to overrule an  
27       objection that the interrogatory is vague and ambiguous.

[*Beach v. City of Olathe, Kans.* (D KS 2001) 203 FRD 489,  
497]

....

[11:2059] *Ambiguous*: It is *not* ground for objection that the request is “ambiguous” unless so ambiguous that the responding party cannot, in good faith, frame an intelligent reply. Parties should “admit to the fullest extent possible, and *explain in detail* why other portions of a request may not be admitted.” Failure to do so may result in sanctions (below). [*Marchand v. Mercy Med. Ctr.* (9th Cir. 1994) 22 F3d 933, 938]

[11:2060] **PRACTICE POINTER**: If you decide to object on the ground that an RFA is “too ambiguous to frame a response,” *include* an explanation of what you feel is ambiguous and why it prevents any intelligent reply.

Authorities re: Unspecified “Privilege” Without a Privilege Log

The Ninth Circuit, in *Davis v. Fendler*, 650 F.2d 1154, 1160 (9th Cir. 1981),  
stated:

Moreover, objections should be plain enough and specific enough so that the court can understand in what way the interrogatories are alleged to be objectionable. Appellant never identified, with any specificity, the interrogatories to which the claim of privilege pertained. Appellant’s blanket claim of privilege is simply not sufficient.

Rutter, *supra*, states (bolding and italics in treatise):

(b) [11:1918] **Documents withheld as privileged; privilege log requirement**: Parties withholding documents as privileged should identify and describe the documents in sufficient detail to enable the

1 demanding party “to assess the applicability of the privilege or  
2 protection.” [FRCP 26(b)(5); and see FRCP 45(e)(2)(A) (applicable to  
3 documents withheld under subpoena); *Ramirez v. County of Los Angeles*  
4 (CD CA 2005) 231 FRD 407, 410—failure to provide sufficient  
5 information may constitute waiver of privilege]

6 *Providing a “privilege log”* (see ¶11:1919) has become “an almost  
7 universal method of asserting privilege under the Federal Rules.”  
8 [*Caudle v. District of Columbia* (D DC 2009) 263 FRD 29, 35; *Novelty,*  
9 *Inc. v. Mountain View Marketing, Inc.* (SD IN 2009) 265 FRD 370,  
10 380-381]

11 . . . .

12 [11:1918.1] **PRACTICE POINTER:** To avoid any uncertainty, serve  
13 your privilege log within the 30 days allowed for response to the  
14 discovery request (see ¶11:1902). If unable to do so, ask opposing  
15 parties to stipulate to an extension; if they refuse your request, seek a  
16 court order. Otherwise, you risk having the court find your privilege  
17 claims waived.

18 . . . .

19 1) [11:1919] **Privilege log content:** To satisfy this requirement, the  
20 responding party should maintain a “privilege log,” setting forth:

21 The general nature of the document (without disclosing its contents);

22 The identity and position of its author;

23 The date it was written;

24 The identity and position of all addressees and recipients;

25 The document's present location;

26 The specific reason(s) it was withheld (which privilege claimed, etc.).

27 [*United States v. Construction Products Research, Inc.* (2nd Cir. 1996)

28 73 F3d 464, 473; see discussion at ¶11:795]

1       *Comment:* Listing each e-mail separately is crucial where different  
2 e-mails in the strand potentially raise different privilege grounds.

3  
4       *Waiver:* Keep in mind that if one message in the strand has been  
5 disclosed to someone outside the scope of privilege, the privilege is  
6 waived with respect to that message *and all attached* e-mails. [See  
7 *United States v. ChevronTexaco Corp.* (ND CA 2002) 241 F.Supp.2d  
8 1065, 1074-1075 & fn. 6]

9  
10       In *Ramirez v. County of Los Angeles*, 231 F.R.D. 407, 410 (C.D. Cal. 2005),  
11 the court stated:

12               Under Fed.R.Civ.P. 26(b)(5), a party who withholds discovery  
13 materials because of a claim of privilege or work product protection  
14 must notify the other party that it is withholding material. 1993 *Notes of*  
15 *Adv. Comm. to Fed.R.Civ.P. 26(b)*. The party who withholds discovery  
16 materials must provide sufficient information (i.e., a privilege log) to  
17 enable the other party to evaluate the applicability of the privilege or  
18 protection. *Id.*; *see also Clarke v. Am. Commerce Nat'l Bank*, 974 F.2d  
19 127, 129 (9th Cir.1992). Failure to provide sufficient information may  
20 constitute a waiver of the privilege. *See Eureka Fin. Corp. v. Hartford*  
21 *Accident & Indem. Co.*, 136 F.R.D. 179, 182-83 (E.D.Cal.1991) (a  
22 “blanket objection” to each document on the ground of attorney-client  
23 privilege with no further description is clearly insufficient); *Peat,*  
24 *Marwick, Mitchell & Co. v. West*, 748 F.2d 540, 542 (10th Cir.1984)  
25 (*per curiam*), *cert. dismissed*, 469 U.S. 1199, 105 S.Ct. 983, 83 L.Ed.2d  
26 984 (1985) (attorney-client privilege waived when defendant did not  
27 make a timely and sufficient showing that the documents were protected  
28 by privilege).

Authorities re: Witness Names, Addresses and Telephone Numbers

In granting a motion to compel credit reporting data pertaining to other consumers, the court in *Shaw v. Experian Information Solutions, Inc.*, 306 F.R.D. 293, 301 (S.D. Cal. 2015), citing *Artis v. Deere & Co.*, 276 F.R.D. 348, 352–53 (N.D.Cal.2011) (citing *Wiegele v. FedEx Ground Package Sys.*, 2007 WL 628041, at \*2 (S.D.Cal. Feb. 8, 2007)), stated:

In class action suits, the disclosure of names, addresses, and telephone numbers is commonly allowed, because such disclosure “does not involve revelation of personal secrets, intimate activities, or similar private information, which have been found to be serious invasions of privacy.” *Artis*, 276 F.R.D. at 353 (citing *Khalilpour v. CELLCO Partnership*, 2010 WL 1267749, at \*3 (N.D.Cal. Apr. 1, 2010)).

In *Artis v. Deere & Co.*, 276 F.R.D. 348, 352–53 (N.D. Cal. 2011), the court stated:

The disclosure of names, addresses, and telephone numbers is a common practice in the class action context. *See Currie–White v. Blockbuster, Inc.*, 2010 WL 1526314, at \*2 (N.D.Cal. Apr. 15, 2010); *see also Babbitt v. Albertson’s Inc.*, 1992 WL 605652, at \*6 (N.D.Cal. Nov. 30, 1992) (at pre-certification stage of Title VII class action, defendant employer ordered to disclose names, addresses, telephone numbers and social security numbers of current and past employees); *Putnam v. Eli Lilly & Co.*, 508 F.Supp.2d 812, 814 (C.D.Cal.2007) (ordering production of the names, addresses, and telephone numbers of putative class members, subject to a protective order, including those who worked in a sales division other than the plaintiff’s own). Given this standard, the Court finds that Plaintiff is entitled to the contact

1 information of putative class members. Plaintiff seeks this information  
2 in order to substantiate class allegations and to meet the certification  
3 requirements under Rule 23. The contact information and subsequent  
4 contact with potential class members is necessary to determine whether  
5 Plaintiff's claims are typical of the class, and ultimately whether the  
6 action may be maintained as a class action.

7 In reviewing Defendants' arguments, the Court notes that, with  
8 the exception of the applicants' right to privacy, their arguments tend to  
9 focus on whether Plaintiff will ultimately satisfy her burden of  
10 establishing that a class action is proper under Rule 23. However, the  
11 Court need not concern itself with these arguments here as Plaintiff's  
12 burden at this stage is to make a prima facie showing that the Rule 23  
13 class action requirements are satisfied, which the Court finds that she  
14 has done. *Mantolete*, 767 F.2d at 1424.

15 . . . .

16 Here, the putative class members may possess relevant  
17 discoverable information concerning issues dealing with Plaintiff's  
18 gender discrimination claims, as well as other class certification issues.  
19 Further, the privacy interests at stake in the names, addresses, and phone  
20 numbers must be distinguished from those more intimate privacy  
21 interests such as compelled disclosure of medical records and personal  
22 histories. *Id.* While the putative class members have a legally protected  
23 interest in the privacy of their contact information and a reasonable  
24 expectation of privacy the information sought by Plaintiff is not  
25 particularly sensitive. *See, e.g., Khalilpour v. CELLCO Partnership*,  
26 2010 WL 1267749, at \*3 (N.D.Cal. Apr. 1, 2010) ("the disclosure of  
27 names, addresses, and telephone numbers is common practice in the  
28 class action context because it does not involve revelation of personal



1 secrets, intimate activities, or similar private information, which have  
2 been found to be serious invasions of privacy”). As a result, Defendant’s  
3 privacy objections must yield to Plaintiff’s request for the information.  
4

5 In granting a plaintiff’s motion to compel class member information, the  
6 Central District, in *Putnam v. Eli Lilly & Co.*, 508 F.Supp.2d 812, 813-14 (C.D. Cal.  
7 2007), stated:

8 In order to certify a class under Rule 23 of the Federal Rules of  
9 Civil Procedure, plaintiff must set forth facts that support four  
10 requirements: 1. numerosity; 2. common questions of law or fact; 3.  
11 typicality of the claims or defenses; and 4. adequacy of the  
12 representation. Fed.R.Civ.P. 23(a), *see also In re Mego Financial*  
13 *Corporation Securities Litigation*, 213 F.3d 454, 462 (9th Cir.2000).  
14 The question here is whether the contact information for 348 employees  
15 of defendant—employees both inside and outside of plaintiff’s sales  
16 division—is needed by plaintiff to present its certification motion. While  
17 the Court recognizes that courts throughout the country have come out  
18 on both sides of this issue, this Court finds that, on balance, the  
19 information should be provided. [footnote omitted] *See, e.g., Babbitt v.*  
20 *Albertson’s, Inc.*, 1992 WL 605652, \*5–6 (N.D.Cal. Nov. 30, 1992)  
21 (court ordered production at pre-certification stage of names, addresses,  
22 telephone numbers and social security numbers of current and past  
23 employees, commenting that “[d]efendant has access to this information,  
24 and plaintiff should have the same access. Furthermore, the information  
25 could lead to the discovery of admissible evidence relevant to the class  
26 certification issue.”) (emphasis added).

27 Defendant offers no adequate explanation as to why information  
28 about pharmaceutical representatives in sales divisions other than the

1 one in which plaintiff worked is not relevant to the inquiry. Instead, it  
2 seems to the Court that contact with those individuals could well be  
3 useful for plaintiff to determine, at a minimum, the commonality and  
4 typicality prongs of Rule 23. Defendant also argues that even if the  
5 Court were to find the contact information relevant at this stage, the  
6 privacy rights of these individuals outweigh the relevance. While  
7 defendant is correct that individuals have a privacy interest in not having  
8 their names and addresses disclosed to third parties, the Court has  
9 balanced defendant's asserted right to privacy against the relevance and  
10 necessity of the information being sought by plaintiff. *See, e.g., Johnson*  
11 *v. Thompson*, 971 F.2d 1487, 1497 (10th Cir.1992); *Ragge v.*  
12 *MCA/Universal Studios*, 165 F.R.D. 601, 604–05 (C.D.Cal.1995) (the  
13 right to privacy is not absolute, but is “subject to invasion depending  
14 upon the circumstances.”). In doing so, special attention has been paid  
15 to defendant's concern over its perceived duty to protect its employees,  
16 as well as plaintiff's need to contact potential plaintiffs. As in *Gulf Oil*  
17 *Co. v. Bernard*, 452 U.S. 89, 101 S.Ct. 2193, 68 L.Ed.2d 693 (1981)  
18 (abuse of discretion for district court to ban communications concerning  
19 class action between parties and potential class members without court  
20 approval; “mere possibility of abuses” in class action litigation does not  
21 justify communications ban), the Court finds that plaintiff's needs here  
22 outweigh the concerns of defendant. Plaintiff has shown a legitimate  
23 need for the requested information to determine, among other things,  
24 whether common questions of law or fact exist and if plaintiff's claims  
25 are typical. The need is especially compelling here where the  
26 information to be disclosed concerns not disinterested third parties, but  
27 rather potential plaintiffs themselves. This information must be  
28 disclosed to enable plaintiff to proceed; a protective order can strike the

1 appropriate balance between the need for the information and the  
2 privacy concerns. [footnote omitted]  
3

4 Despite being made aware during meet and confer of the foregoing authorities,  
5 Defendant's refusal to withdraw the objections and failure to amend its answer to be  
6 straightforward and complete has resulted in this motion. There was no justification  
7 given by Defendant's counsel during the meet and confer for not withdrawing the  
8 objections and amending the response, per the meet and confer. It is unclear what  
9 (if any) documents or information Defendant has withheld, as explained in *Ramirez*  
10 *v. County of Los Angeles, supra*, 231 F.R.D. at 410. Since July 7, 2016, this court has  
11 had in place a stipulated protective order, under which any confidential documents  
12 and information could have been produced. Thus, not only should the court grant the  
13 motion to compel this answer, but the court should require Defendant and its counsel  
14 to pay Plaintiff's attorney's fees, pursuant to Rule 37(a)(5).  
15

16 Responding party's contentions and points and authorities

17 (Please provide this information within 7 days of receipt of this stipulation)  
18  
19

20 B. Document Demands No. 13  
21

22 Verbatim request

23 All DOCUMENTS showing the number, names and addresses of persons in the  
24 state of California who were sent a collection letter in the form of EXHIBIT A, at any  
25 time on or after November 30, 2014.  
26

27 Verbatim response  
28

1           Objection. The request is overly broad, unduly burdensome, oppressive, vague  
2 and ambiguous. The request calls for information which is not relevant and not  
3 reasonably calculated to lead to the discovery of admissible evidence regarding  
4 Plaintiff's claims and Defendant's defenses. The request calls for confidential and  
5 private information and violates the right to privacy of third parties. Subject to and  
6 without waiving said objections, Defendant responds as follows: All non-privileged  
7 documents which are within Defendant's possession, custody and control will be  
8 produced.

9  
10                   Moving party's contentions and points and authorities

11           Objections of not relevant, not reasonably calculated to lead to the discovery  
12 of admissible evidence, overly broad, unduly burdensome, oppressive, vague,  
13 ambiguous, confidential, proprietary, and the right of third parties to privacy lack  
14 merit, are merely boilerplate, and not specific. *Mancia, supra*; *Beach v. City of*  
15 *Olathe, Kans.* 203 F.R.D. 489, 497 (D. Kan. 2001). The old boilerplate of "not  
16 reasonably calculated to lead" is no longer the standard in FRCP Rule 26(b)(1). Also,  
17 they are waived by answering "subject to . . . said objections." *Communications Co.,*  
18 *L.P. v. Comcast Cable Communications, LLC, supra.* These objections are also  
19 meritless, as this is to get the total number of collection letters to persons in  
20 California sent this particular form letter, which appears to violate the FDCPA, for  
21 purposes of evaluating the number of class members in connection with Plaintiff's  
22 motion for class certification, which requires numerosity. Rule 23(a)(1). It also  
23 seeks documents that show each person's name and address, which is permitted. *Artis*  
24 *v. Deere, supra.* These documents are appropriate for numerosity and probative on  
25 this issue of commonality.

26           The response states: "All *non-privileged* documents which are within  
27 Defendant's possession, custody and control will be produced." No privilege log was  
28 produced, so Plaintiff cannot evaluate what documents have been withheld based on

1 “privilege.” It is unclear what (if any) documents or information Defendant has  
2 withheld, as explained in *Ramirez v. County of Los Angeles*, *supra*, 231 F.R.D. at 410.

3 Rule 34 requires a party (entity) to respond whether it will agree to produce all  
4 documents within the possession, custody or control. The amended response is  
5 unclear because the term “and” is used to join possession, custody and control, rather  
6 than “or.” Rutter, *supra*, ¶ 11:1915, states: “the response must state the extent to  
7 which the responding party is willing to comply and the extent to which it is unable  
8 or unwilling to comply. Ambiguity about these matters often leads to unnecessary  
9 motions to compel and sanctions.” See, above, for Plaintiff’s concerns from  
10 *De Amaral*, *supra*, related to defendant G&H being caught objecting to production  
11 of documents, responding “notwithstanding,” then trying to produce responsive  
12 documents later in a case. The objections should be overruled, as Plaintiff submits  
13 that this response is unclear. See Rutter, *supra*, ¶ 11:1912, which states:

14 (1) [11:1912] **Agreement to comply:** For each item or category, the  
15 response must state that inspection will be permitted as requested or  
16 state with specificity the grounds for objecting to the request, including  
17 the reasons. [FRCP 34(b)(2)(B)]

18 [11:1912.1] **PRACTICE POINTER:** Ambiguous responses are  
19 a common source of discovery disputes. E.g., agreeing to produce  
20 “responsive documents” creates an ambiguity as to whether some  
21 documents are being withheld on the basis of objections. Avoid the  
22 problem by either agreeing to produce “all documents requested in the  
23 demand” or specifying the particular documents and records that will be  
24 produced.

25  
26 In *City of Colton v American Promotional Events, Inc.*, 277 F.R.D. 578, 583  
27 (C.D. Cal. 2011), quoting *United States v. O’Keefe*, 537 F.Supp.2d 14, 23 (D.D.C.  
28 2008), the court explained ESI’s relation within Rule 34:

1 Under Rule 34 of the Federal Rules of Civil Procedure, a distinction  
2 between documents and electronically stored information is made in  
3 terms of the form of production. As established above, a party is  
4 obligated to either produce documents as they are kept in the usual  
5 course of business or it 'must organize and label them to correspond to  
6 the categories in the request.' Fed.R.Civ.P. 34(b)(2)(E)(i). But if, as  
7 occurred here, electronically-stored information is demanded but the  
8 request does not specify a form of production, the responding party must  
9 produce the electronically-stored information in the form in which it is  
10 ordinarily maintained or in a reasonably useable form. Fed.R.Civ.P.  
11 34(b)(2)(E)(ii).... [¶] If one were to apply these rules to this case, it  
12 appears that the government's production of the electronically stored  
13 information in PDF or TIFF format would suffice, unless defendants can  
14 show that those formats are not 'reasonably useable' and that the native  
15 format, with accompanying metadata, meet the criteria of 'reasonably  
16 useable' whereas the PDF or TIFF formats do not."

17  
18 Despite being made aware during meet and confer of the foregoing authorities  
19 (as stated in interrogatory 10, Moving Party's Contentions and P&As), Defendant's  
20 refusal to withdraw the objections and respond unambiguously has resulted in this  
21 motion. There was no justification given by Defendant's counsel during the meet and  
22 confer for not withdrawing the objections and responding, per the meet and confer,  
23 other than advising that they are unable to perform an electronic search of their  
24 computerized records (such as Exhibit 6, collection history as to Plaintiff), to which  
25 Plaintiff's counsel asked what had been done to search the records, to which  
26 Responding Party's counsel asserted that she did not know. Since July 7, 2016, this  
27 court has had in place a stipulated protective order, under which any confidential  
28 documents and information could have been produced. Thus, not only should the



1 court grant the motion to compel these documents, but the court should require  
2 Defendant and its counsel to pay Plaintiff's attorney's fees, pursuant to Rule 37(a)(5).

3  
4 Responding party's contentions and points and authorities

5 (Please provide this information within 7 days of receipt of this stipulation)  
6

7  
8 III. Net Worth of G&H for purposes of FDCPA & RFDCPA class damages

9  
10 A. Interrogatories Nos. 18, 20

11  
12 1. Interrogatory 18

13  
14 Verbatim request

15 State William I. Goldsmith's net worth, including how it was calculated.  
16

17 Verbatim response

18 Objection. The interrogatory seeks information which is confidential,  
19 proprietary, and which is protected by Defendant's right to privacy. Further, the  
20 interrogatory seeks information which is neither relevant nor reasonably calculated  
21 to lead to the discovery of admissible evidence. Moreover, Defendant objects to the  
22 extent this request calls for privileged information.  
23

24 Moving party's contentions and points and authorities

25 Objections of not relevant, not reasonably calculated to lead to the discovery  
26 of admissible evidence, confidential, proprietary, "to the extent privileged," and right  
27 to privacy lack merit, are merely boilerplate, and not specific. *Mancia, supra*; *Beach*  
28 *v. City of Olathe, Kans.* 203 F.R.D. 489, 497 (D. Kan. 2001). The old boilerplate of



1 “not reasonably calculated to lead” is no longer the standard in FRCP Rule 26(b)(1).  
2 Each defendant’s net worth is relevant in an FDCPA class action (see 15 U.S.C. §  
3 1692k(a), *Trevino, infra*), as that is the basis on which the statutory damages for the  
4 class are to be calculated (see below for “Authorities re: Defendant’s Net Worth and  
5 Financial Statements”). As to these interrogatories, defendant William I. Goldsmith  
6 signed the verification. Thus, responsive information is available to Defendant (see  
7 below for “Authorities re: Available Information and Documents”). Defendant is not  
8 an entity that is traded on any stock exchange, so the information needed for net  
9 worth is neither available from public sources nor is the information analyzed by any  
10 public agency, such as the SEC, or a group of investors. According to the deposition  
11 of G&H, only Mr. Goldsmith owns any stock in G&H.

12 Despite Plaintiff’s instructions to provide a privilege log and the foregoing  
13 meet and confer which explains the requirement for a log, no privilege log was  
14 produced, so Plaintiff cannot evaluate what documents are subject to the claim of  
15 “privilege.” It is unclear what (if any) documents or information Defendant has  
16 withheld, as explained in *Ramirez v. County of Los Angeles, supra*, 231 F.R.D. at 410.

17 There was extensive meet and confer on the subject of the defendants’ net  
18 worth, but no justification was given by Defendant’s counsel during the meet and  
19 confer for not withdrawing the objections and responding, other than it is private. As  
20 of this date, no information or documents stating Goldsmith’s net worth or how it is  
21 calculated have been produced in this case. In connection with the 2015/2014  
22 financial statements produced by Defendant G&H and discussed during its Rule  
23 30(b)(6) deposition, it revealed some financial information about Mr. Goldsmith, due  
24 to his extensive relationship and dealings with G&H, but it did not reveal Mr.  
25 Goldsmith’s current net worth or calculations. Thus, this information or documents  
26 have not been provided to Plaintiff for Mr. Goldsmith.

27 In *Lucas v. G.C. Services, L.P.*, 226 F.R.D. 328, 334 (N.D.Ind. 2004), the Court  
28 resolved a discovery dispute in an FDCPA class action as follows:

1 Interrogatories No. 11–13 and Document Requests 19 and 21 seek  
2 financial information regarding the defendants' net worth. In response,  
3 the defendants provided a two-page unaudited balance sheet for GC  
4 Services and cited case law for the proposition that no other information  
5 is relevant in FDCPA cases. *See Sanders v. Jackson*, 209 F.3d 998 (7th  
6 Cir.2000). On December 14, 2004, the defendants untimely provided an  
7 audited two-page balance sheet for GC Services. However, this court  
8 ordered the defendants to provide full and complete responses. The  
9 defendants have waived all legal defenses and must comply in full with  
10 the plaintiffs' requests. Specifically, the defendants are to provide an  
11 audited balance sheet for each defendant, an identification of each  
12 lawsuit in which the defendants have provided or produced financial  
13 statements or net worth information, an identification of each instance  
14 in which the defendants have provided their net worth to any  
15 government agency, and financial statements, annual reports,  
16 semiannual and quarterly financial statements, credit applications, and  
17 tax returns for the last three years.

18  
19 During the meet and confer on discovery disputes, Plaintiff provided the  
20 following analysis and authorities for this subject matter (net worth) and Defendant's  
21 objections, in addition to the many authorities cited above, which Plaintiff submits  
22 also in support of this motion to compel further response:

23  
24 Authorities re: Defendant's Net Worth and Financial Statements

25  
26 Rutter, *supra*, states (bolding and italics in treatise):

27 a. [11:991] **Privacy**: Federal courts generally recognize a right of  
28 privacy that can be raised in response to discovery requests. [*Johnson*

1       by *Johnson v. Thompson* (10th Cir. 1992) 971 F2d 1487, 1497; *DeMasi*  
2       *v. Weiss* (3rd Cir. 1982) 669 F2d 114, 119-120]

3       Unlike a privilege, the right of privacy is not an absolute bar to  
4       discovery. Rather, courts balance the need for the information against  
5       the claimed privacy right. [*Stallworth v. Brollini* (ND CA 2012) 288  
6       FRD 439, 444 (federal right of privacy); *West Bay One, Inc. v. Does*  
7       *1-1,653* (D DC 2010) 270 FRD 13, 15-16; *Shaw v. Experian*  
8       *Information Solutions, Inc.* (SD CA 2015) 306 FRD 293, 301]

9  
10       Courts consider various factors in performing the balancing analysis,  
11       including “(1) the type of information requested, (2) the potential for  
12       harm in any subsequent non-consensual disclosure, (3) the adequacy of  
13       safeguards to prevent unauthorized disclosure, (4) the degree of need for  
14       access, and (5) whether there is an express statutory mandate, articulated  
15       public policy, or other recognizable public interest militating toward  
16       access.” [See *Seaton v. Mayberg* (9th Cir. 2010) 610 F3d 530, 539, 541,  
17       fn. 47]

18  
19       In *Oakes v. Halvorsen Marine Ltd.*, 179 F.R.D. 281, 286 (C.D. Cal. 1995), the  
20       court stated:

21               The discovery of financial information relevant to a punitive  
22       damages claim is permissible under the Federal Rules of Civil  
23       Procedure, whether or not such evidence would be admissible at trial.  
24       *CEH*, 153 F.R.D. at 498–99. Moreover, as discussed above, one of the  
25       purposes behind the broad federal discovery rules is to facilitate  
26       settlement, and such financial information is valuable in assisting both  
27       sides in making a realistic appraisal of the case, and may lead to  
28       settlement and avoid protracted litigation. *Id.* at 499.

1 In *Hawecker v. Sorenson*, No. 1:10-cv-00085 OWW JLT, 2011 WL 98598 \*2  
2 (E.D. Cal. Jan. 12, 2011), the court granted the plaintiff's motion to compel further  
3 interrogatories, document production, and amended document responses regarding  
4 the defendant's net worth, as follows:

5 According to the "Joint Statement" filed by the parties, the disputes  
6 concern primarily the production of documents related to Defendant's  
7 net worth and documents created in the course of his rental business.  
8 (Doc. 50 at 5). Plaintiffs seek the discovery "to (1) determine  
9 defendant's financial condition; (2) test defendant's assertions  
10 concerning the drop in his net worth; (3) make informed settlement  
11 decisions; and (4) prepare for trial on their punitive damages claim." *Id.*  
12 at 3.

13  
14 *A. Requests related to Defendant's net worth*

15 Plaintiffs argued Defendant's responses "are insufficient to enable  
16 plaintiffs to calculate his net worth and determine whether his claims to  
17 reduced monetary means are meritorious." (Doc. 50 at 9). Plaintiffs have  
18 stated a claim for punitive damages, and as such argue that information  
19 relating to Defendant's financial condition is relevant to their case. *Id.*  
20 at 4.

21  
22 In *Gonzalez v. Totah Family Partnership*, No. 10cv2012-MMA (CAB), 2011  
23 WL 2135344 \*1-3 (S.D. Cal., May 31, 2011), the court stated:

24 **Interrogatory No. 2** requests the defendant's net worth. Plaintiffs seek  
25 this as relevant to their punitive damage claims. Defendant does not  
26 deny that the information is relevant, however Defendant represents that  
27 it intends to challenge plaintiffs' punitive damages allegations by  
28

1 motion practice. The motion to compel further a response to  
2 Interrogatory No. 2 is GRANTED . . . .

3 . . . .

4 **Document Requests Nos. 16–20** seek documents regarding the  
5 defendant's net worth. Responsive documents will be produced in  
6 accordance with the schedule set forth regarding further responses to  
7 Interrogatory No. 2, above.

8  
9 In *Trevino v. ACB American, Inc.*, 232 F.R.D. 612, 617 (N.D. Cal., 2006), the  
10 court stated:

11 **E. Discovery Related to Damages (Hilco Interrogatory no. 16; ACB**  
12 **Interrogatory no. 10; Hilco and ACB RFA nos. 1–9; Hilco and ACB**  
13 **RFP nos. 8, 19)**

14 Plaintiffs seek information about defendants' net worth, and the  
15 production of financial statements and tax returns for the last three years  
16 and two years, respectively.

17 The FDCPA explicitly states that damages in a class action case may be  
18 calculated based on defendants' net worth. *See* 15 U.S.C. § 1692k(a).  
19 Therefore, such information is relevant, and potentially useful in  
20 determining whether this case is appropriate for class certification.

21 Accordingly, *defendants are ordered to produce complete annual*  
22 *financial statements for the past three years, including, but not limited*  
23 *to, balance sheets, and profit and loss statements with notes.* [footnote  
24 omitted] *Plaintiffs' motions to compel the production of tax returns are*  
25 *denied without prejudice* and may be renewed later upon a better  
26 showing.

1 In *A. Farber and Partners, Inc. v. Garber*, 234 F.R.D. 186, 191-92 (C.D. Cal.  
2 2006), the court stated:

3 Here, plaintiff has met its burden of showing the information sought is  
4 relevant, especially to plaintiff's civil RICO claims. *See, e.g., State Farm*  
5 *Mut. Ins. Co. v. CPT Med. Servs., P.C.*, 375 F.Supp.2d 141, 156  
6 (E.D.N.Y.2005) (financial records, including tax returns, relevant in  
7 civil RICO action); *U.S. v. Bonanno Organized Crime Family of La*  
8 *Cosa Nostra*, 119 F.R.D. 625, 627 (E.D.N.Y.1988) (tax returns "clearly  
9 relevant" in civil RICO litigation). On the other hand, defendant Garber  
10 has not shown, or even attempted to show, the information sought is  
11 available from other sources. *Cotracom Commodity Trading Co.*, 189  
12 F.R.D. at 665; *Bonanno Organized Crime Family of La Cosa Nostra*,  
13 119 F.R.D. at 627. Therefore, defendant Garber's tax returns and related  
14 documents are discoverable in this action, subject to an appropriate  
15 protective order as discussed herein.

16  
17 Authorities re: Available Information and Documents

18  
19 Rutter, *supra*, states (bolding and italics in treatise):

20 b. [11:1673] **Information known or available to entity party:**

21 Interrogatories propounded to a public or private corporation,  
22 partnership, association or governmental agency must be answered by  
23 "any officer or agent, who must furnish the information *available to the*  
24 *party*" (not just known by the responding officer or agent). [FRCP  
25 33(b)(1)(B) (emphasis added); see ¶11:1747 ff.]

26 (1) [11:1674] **Effect:** Thus, for example, the responding party cannot  
27 plead lack of knowledge of matters *known to its employees or agents*;  
28 or data contained in its files or records.



1 (2) [11:1675] **Compare—depositions:** At a deposition, the deponent  
2 need answer only according to his or her *own knowledge* at that time;  
3 there is no duty to furnish “available” information (unless designated to  
4 testify on behalf of a corporation pursuant to FRCP 30(b)(6); see  
5 ¶11:1413 ff.).

6 . . . .  
7 c. [11:1747] **Entity must furnish information known or available to**  
8 **it:** In answering interrogatories propounded to a corporation,  
9 partnership, association or governmental agency, the officer or agent  
10 responding on its behalf “must furnish the information *available* to the  
11 party.” [FRCP 33(b)(1)(B) (emphasis added)]

12 (1) [11:1748] **Effect:** The person responding on behalf of the entity is  
13 under a duty *to obtain and provide* nonprivileged information known to  
14 anyone in the entity's employ or over whom it has *control*. This includes  
15 information known to the entity's agents or lawyers (assuming the  
16 information is otherwise discoverable and neither privileged nor  
17 protected work product). [See *General Dynamics Corp. v. Selb Mfg. Co.*  
18 (8th Cir. 1973) 481 F2d 1204, 1210]

19 (2) Application

20 • [11:1749] A corporate party must furnish information known to its  
21 officers, directors and other sources under its control. [*Brunswick Corp.*  
22 *v. Suzuki Motor Co., Ltd.* (ED WI 1983) 96 FRD 684, 686—information  
23 known to subsidiary; *FDIC v. Halpern* (D NV 2010) 271 FRD 191,  
24 193—information sought from bank of which FDIC was receiver]

25 • [11:1750] Where interrogatories are served on an unincorporated  
26 association, Rule 33(a)(1)(B) allows it to select an officer or agent to  
27 respond on its behalf. [See *University of Texas at Austin v. Vratil* (10th  
28 Cir. 1996) 96 F3d 1337, 1340]



1 Despite being made aware during meet and confer of the foregoing authorities,  
2 Defendant's refusal to withdraw the objections and provide an answer has resulted  
3 in this motion. There was no valid justification given by Defendant's counsel during  
4 the meet and confer for not withdrawing the objections and answering, per the meet  
5 and confer (other than stating that this is private). It is unclear what (if any)  
6 documents or information Defendant has withheld, as explained in *Ramirez v. County*  
7 *of Los Angeles, supra*, 231 F.R.D. at 410. Since July 7, 2016, this court has had in  
8 place a stipulated protective order, under which any confidential documents and  
9 information could have been produced. Thus, not only should the court grant the  
10 motion to compel this answer, but the court should require Defendant and its counsel  
11 to pay Plaintiff's attorney's fees, pursuant to Rule 37(a)(5).

12  
13  
14 Responding party's contentions and points and authorities

15 (Please provide this information within 7 days of receipt of this stipulation)  
16

17 2. Interrogatory 20

18  
19 Verbatim request

20 State G&H's net worth, including how it was calculated.  
21

22 Verbatim response

23 Objection. The interrogatory seeks information which is confidential,  
24 proprietary, and which is protected by Defendant's right to privacy. Further, the  
25 interrogatory seeks information which is neither relevant nor reasonably calculated  
26 to lead to the discovery of admissible evidence. Moreover, Defendant objects to the  
27 extent this request calls for privileged information. Subject to and without waiving  
28

1 said objections, Defendant responds as follows: Once an appropriate protective order  
2 is entered, Defendant will produce documents with the requested information.

3  
4 Moving party's contentions and points and authorities

5 Objections of not relevant, not reasonably calculated to lead to the discovery  
6 of admissible evidence, overly broad, unduly burdensome, harassing, confidential,  
7 proprietary, right to privacy lack merit, are merely boilerplate and not specific.  
8 *Mancia, supra*; *Beach v. City of Olathe, Kans.* 203 F.R.D. 489, 497 (D. Kan. 2001).  
9 The old boilerplate of "not reasonably calculated to lead" is no longer the standard  
10 in FRCP Rule 26(b)(1). Also, these objections are waived by answering "subject to  
11 . . . said objections." *Communications Co., L.P. v. Comcast Cable Communications,*  
12 *LLC, supra.*

13 Despite Plaintiff's instructions to provide a privilege log and the foregoing  
14 meet and confer which explains the requirement for a log, no privilege log was  
15 produced, so Plaintiff cannot evaluate what documents are subject to the claim of  
16 "privilege." It is unclear what (if any) documents or information Defendant has  
17 withheld, as explained in *Ramirez v. County of Los Angeles, supra*, 231 F.R.D. at 410.

18 Subject to the court's Protective Order entered July 7, 2016, Defendant sent a  
19 redacted copy of G&H's financial statements for the years 2015 and 2014, including  
20 notes and Plaintiff's counsel asked about them at the Rule 30(b)(6) deposition of  
21 G&H. The redactions and confidentiality designation prevent Plaintiff from attaching  
22 those financial statements to this motion, so Plaintiff may submit the documents  
23 separately under seal to be able to discuss why they are insufficient for Plaintiff to  
24 calculate the net worth of G&H, to answer this interrogatory. During the meet and  
25 confer process, Defendant's counsel stated it would not produce any further financial  
26 statements, though Mr. Goldsmith stated that he has had the same (unspecified) CPA  
27 firm prepare G&H's financial statements for over 30 years. Thus, not only should the  
28 court grant the motion to compel this be answered fully and with seven years of

1 complete, unredacted financial statements, supporting schedules and CPA report, but  
2 the court should require Defendant and its counsel to pay Plaintiff's attorney's fees,  
3 pursuant to Rule 37(a)(5).

4  
5 Responding party's contentions and points and authorities

6 (Please provide this information within 7 days of receipt of this stipulation)  
7

8  
9 B. Request for Production of Documents Nos. 43, 44

10  
11 1. Document Demand 43

12  
13 Verbatim request

14 All DOCUMENTS, including but not limited to financial statements, relating  
15 to the calculation of G&H's net worth.

16  
17 Verbatim response

18 All non-privileged documents which are within Defendant's possession,  
19 custody and control will be produced once an appropriate protective order is entered.  
20

21 Moving party's contentions and points and authorities

22 Despite Plaintiff's instructions to provide a privilege log and the foregoing  
23 meet and confer which explains the requirement for a log, no privilege log was  
24 produced, so Plaintiff cannot evaluate what documents are subject to the claim of  
25 "privilege." It is unclear what (if any) documents or information Defendant has  
26 withheld, as explained in *Ramirez v. County of Los Angeles*, *supra*, 231 F.R.D. at 410.  
27 However, from the Rule 30(b)(6) deposition, it is evident that many years of financial  
28 statements have been withheld that would help calculate Defendant's net worth, in

1 that Mr. Goldsmith testified that the CPA has prepared financial statements for G&H  
2 for over 30 years. Also, the financial statement produced was heavily redacted, even  
3 the accountant's report and name have been omitted from production. Thus, not only  
4 should the court grant the motion to compel this be answered fully and with seven  
5 years of complete, unredacted financial statements (see *Lucas v. G.C. Services, L.P.*,  
6 *supra*, 226 F.R.D. at 334, supporting schedules and CPA report, but the court should  
7 require Defendant and its counsel to pay Plaintiff's attorney's fees, pursuant to Rule  
8 37(a)(5).

9  
10 Responding party's contentions and points and authorities

11 (Please provide this information within 7 days of receipt of this stipulation)  
12

13 2. Document Demand 44  
14

15 Verbatim request

16 All DOCUMENTS, including but not limited to financial statements, relating  
17 to the calculation of William I. Goldsmith's net worth.  
18

19 Verbatim response

20 Objection. The request seeks information which is confidential, proprietary,  
21 and which is protected by Defendant's right to privacy. Further, the request is overly  
22 broad, unduly burdensome, harassing and seeks information which is not relevant and  
23 not reasonably calculated to lead to the discovery of admissible evidence. Defendant  
24 further objects to the extent this request calls for privileged information.  
25

26 Moving party's contentions and points and authorities

27 As with Interrogatory 18, Defendant has asserted only objections and refused  
28 to amend or provide any responsive documents to this. Objections of not relevant,

1 not reasonably calculated to lead to the discovery of admissible evidence,  
2 confidential, proprietary, “to the extent privileged,” and right to privacy lack merit,  
3 are merely boilerplate, and not specific. *Mancia, supra*; *Beach v. City of Olathe,*  
4 *Kans.* 203 F.R.D. 489, 497 (D. Kan. 2001). The old boilerplate of “not reasonably  
5 calculated to lead” is no longer the standard in FRCP Rule 26(b)(1). Each  
6 defendant’s net worth is relevant in an FDCPA class action (see 15 U.S.C. §  
7 1692k(a), *Trevino, supra*), as that is the basis on which the statutory damages for the  
8 class are to be calculated (see above for “Authorities re: Defendant’s Net Worth and  
9 Financial Statements”). As to G&H’s interrogatories, defendant William I. Goldsmith  
10 signed the verification. Thus, responsive information is available to Defendant (see  
11 above for “Authorities re: Available Information and Documents”). Defendant is not  
12 an entity that is traded on any stock exchange, so the information needed for net  
13 worth is neither available from public sources nor is the information analyzed by any  
14 public agency, such as the SEC, or a group of investors. According to the deposition  
15 of G&H, only Mr. Goldsmith owns any stock in G&H.

16 Despite Plaintiff’s instructions to provide a privilege log and the foregoing  
17 meet and confer which explains the requirement for a log, no privilege log was  
18 produced, so Plaintiff cannot evaluate what documents are subject to the claim of  
19 “privilege.” It is unclear what (if any) documents or information Defendant has  
20 withheld, as explained in *Ramirez v. County of Los Angeles, supra*, 231 F.R.D. at 410.

21 There was extensive meet and confer on the subject of the defendants’ net  
22 worth, but no justification was given by Defendant’s counsel during the meet and  
23 confer for not withdrawing the objections and responding, other than it is private. As  
24 of this date, no information or documents stating Goldsmith’s net worth or how it is  
25 calculated have been produced in this case. In connection with the 2015/2014  
26 financial statements produced by Defendant G&H and discussed during its Rule  
27 30(b)(6) deposition, it revealed some financial information about Mr. Goldsmith, due  
28 to his extensive relationship and dealings with G&H, but it did not reveal Mr.

1 Goldsmith's current net worth or calculations. Thus, this information or documents  
2 have not been provided to Plaintiff for Mr. Goldsmith and the information provided  
3 for G&H is insufficient and the redactions of the financial statements made it  
4 incomplete. Thus, not only should the court grant the motion to compel production  
5 of all responsive documents, but the court should require Defendant and its counsel  
6 to pay Plaintiff's attorney's fees, pursuant to Rule 37(a)(5).

7  
8 Responding party's contentions and points and authorities

9 (Please provide this information within 7 days of receipt of this stipulation)  
10  
11

12 C. Requests for Admission No. 79  
13

14 Verbatim request

15 Admit that your net worth is \$500,000.00 or greater.  
16

17 Verbatim response

18 Objection. The requests seeks information which is confidential, proprietary,  
19 and which is protected by Defendant's right to privacy. Further, the interrogatory  
20 seeks information which is neither relevant nor reasonably calculated to lead to the  
21 discovery of admissible evidence. Moreover, Defendant objects to the extent this  
22 request calls for privileged information.  
23

24 Moving party's contentions and points and authorities

25 Defendant has asserted only objections and refused to amend. Objections of  
26 not relevant, not reasonably calculated to lead to the discovery of admissible  
27 evidence, confidential, proprietary, "to the extent privileged," and right to privacy  
28 lack merit, are merely boilerplate, and not specific. *Mancia, supra*; *Beach v. City of*



1 *Olathe, Kans.* 203 F.R.D. 489, 497 (D. Kan. 2001). The old boilerplate of “not  
2 reasonably calculated to lead” is no longer the standard in FRCP Rule 26(b)(1). Each  
3 defendant’s net worth is relevant in an FDCPA class action (see 15 U.S.C. §  
4 1692k(a), *Trevino, supra*), as that is the basis on which the statutory damages for the  
5 class are to be calculated (see above for “Authorities re: Defendant’s Net Worth and  
6 Financial Statements”).

7 Despite Plaintiff’s instructions to provide a privilege log and the foregoing  
8 meet and confer which explains the requirement for a log, no privilege log was  
9 produced, so Plaintiff cannot evaluate what documents are subject to the claim of  
10 “privilege.” It is unclear what (if any) documents or information Defendant has  
11 withheld, as explained in *Ramirez v. County of Los Angeles, supra*, 231 F.R.D. at 410.

12 As of this date, no information or documents stating Goldsmith’s net worth or  
13 how it is calculated have been produced in this case.

14 Parties should “admit to the fullest extent possible, and explain in detail why  
15 other portions of a request may not be admitted.” Failure to do so may result in  
16 sanctions (below). [*Marchand v. Mercy Med. Ctr.* (9th Cir. 1994) 22 F3d 933, 938].”  
17 Thus, not only should the court grant the motion to compel an answer to this request  
18 and overrule (or strike) the objections, but the court should require Defendant and its  
19 counsel to pay Plaintiff’s attorney’s fees, pursuant to Rule 37(a)(5).

20  
21 Responding party’s contentions and points and authorities

22 (Please provide this information within 7 days of receipt of this stipulation)  
23  
24

25 IV. Approval and use of the L4AR form letters sent to consumers in California

26 A. Request for Production of Documents Nos. 20, 27, 34

27 1. Document Demand 20  
28



1                   Verbatim request

2           All DOCUMENTS that refer to the approval and use of collection letters in the  
3 form of EXHIBIT A.

4  
5                   Verbatim response

6           Objection. The request is overly broad, unduly burdensome and harassing.  
7 The request is vague, ambiguous, and calls for information which is not relevant and  
8 not reasonably calculated to lead to the discovery of admissible evidence regarding  
9 Plaintiff's claims and Defendant's defenses. Subject to and without waiving said  
10 objections, Defendant responds as follows: A good faith diligent search and a  
11 reasonable inquiry have been made in an effort to comply with this demand.  
12 Nevertheless, Defendant lacks the ability to comply with this request because the  
13 requested documents have never been in Defendant's possession, custody or control.

14  
15                   Moving party's contentions and points and authorities

16           Objections of not relevant, not reasonably calculated to lead to the discovery  
17 of admissible evidence, overly broad, unduly burdensome, harassing, vague and  
18 ambiguous lack merit, are merely boilerplate and not specific. *Mancia, supra*; *Beach*  
19 *v. City of Olathe, Kans.* 203 F.R.D. 489, 497 (D. Kan. 2001). The old boilerplate of  
20 "not reasonably calculated to lead" is no longer the standard in FRCP Rule 26(b)(1).  
21 Also, these objections are waived by answering "subject to . . . said objections."  
22 *Communications Co., L.P. v. Comcast Cable Communications, LLC, supra*. Despite  
23 being advised of these authorities, Defendant refused to withdraw these objections.

24           This information is relevant to the case against Mr. Goldsmith and possibly  
25 others who approved the letter. The Sixth Circuit held, in *Kistner v. Law Offices of*  
26 *Michael P. Margelefsky, LLC*, 518 F.3d 433, that an officer or employee "may be  
27 personally liable on the basis of his participation in the debt collection activities of  
28 the [debt collection company] more generally."

1 See, above, for Plaintiff's concerns from *De Amaral, supra*, related to  
2 defendant G&H (including Goldsmith, as its counsel) being caught objecting to  
3 production of documents, responding "notwithstanding," then trying to produce  
4 responsive documents later in a case. At the Rule 30(b)(6) deposition of G&H's only  
5 witness, William I Goldsmith testified that he could not recall where they obtained  
6 the language used in the form letter attached to the complaint as Exhibit A or who  
7 approved of it, but it was probably from a letter. (Deposition Transcript on August  
8 11, 2016, at 29:20-30:19.) In this response, Defendant asserts that no document has  
9 ever existed related to the approval or use of the form letter, Exhibit A, so that there  
10 is nothing to be produced. Thus, not only should the court grant the motion to compel  
11 production of all responsive documents and overrule (or strike) the objections, but the  
12 court should require Defendant and its counsel to pay Plaintiff's attorney's fees,  
13 pursuant to Rule 37(a)(5), for interposing meritless and improper objections to  
14 discovery.

15  
16 Responding party's contentions and points and authorities

17 (Please provide this information within 7 days of receipt of this stipulation)

18  
19 2. Document Demand 27

20  
21 Verbatim request

22 All DOCUMENTS that refer to any complaint or criticism by any person who  
23 was sent a collection letter in the form of EXHIBIT A.

24  
25 Verbatim response

26 Objection. The request is overly broad, unduly burdensome, oppressive, vague  
27 and ambiguous. The request calls for information which is not relevant and not  
28 reasonably calculated to lead to the discovery of admissible evidence regarding

1 Plaintiff's claims and Defendant's defenses. The request calls for confidential and  
2 private information and violates the right to privacy of third parties. Subject to and  
3 without waiving said objections, Defendant responds as follows: All non-privileged  
4 documents which are within Defendant's possession, custody and control will be  
5 produced.

6  
7 Moving party's contentions and points and authorities

8 Objections of not relevant, not reasonably calculated to lead to the discovery  
9 of admissible evidence, overly broad, unduly burdensome, harassing, vague and  
10 ambiguous lack merit, are merely boilerplate and not specific. *Mancia, supra*; *Beach*  
11 *v. City of Olathe, Kans.* 203 F.R.D. 489, 497 (D. Kan. 2001). The old boilerplate of  
12 "not reasonably calculated to lead" is no longer the standard in FRCP Rule 26(b)(1).  
13 Also, these objections are waived by answering "subject to . . . said objections."  
14 *Communications Co., L.P. v. Comcast Cable Communications, LLC, supra*. Despite  
15 being advised of these authorities, Defendant refused to withdraw these objections.

16 This response, "notwithstanding the objections," is improper, as the response  
17 must either be that the document production "will be permitted as requested" or the  
18 objections. *Aikens v. Deluxe Fin'l Services, Inc., supra*, 217 F.R.D. at 539  
19 (responding party still has duty to respond to extent request not objectionable). Rule  
20 34 requires a party (entity) respond whether it will agree to produce all documents  
21 within the possession, custody or control. The response is unclear because the term  
22 "and" is used to join possession, custody and control, rather than "or." Rutter, *supra*,  
23 ¶ 11:1915, states: "the response must state the extent to which the responding party  
24 is willing to comply and the extent to which it is unable or unwilling to comply.  
25 Ambiguity about these matters often leads to unnecessary motions to compel and  
26 sanctions." See, above, for Plaintiff's concerns from *De Amaral, supra*.

1 This response is relevant in that it may not only reveal other victims of the  
2 working of the letter but it also goes to the dispute in this case that Exhibit A violates  
3 the FDCPA because it was likely to confuse debtors who received it.

4 In this response, Defendant states that responsive documents will be produced,  
5 but no responsive documents were produced as to debtors other than Plaintiff. Thus,  
6 not only should the court grant the motion to compel production of all responsive  
7 documents and to amend the response to comply with Rule 34, and overrule (or  
8 strike) the objections, but the court should require Defendant and its counsel to pay  
9 Plaintiff's attorney's fees, pursuant to Rule 37(a)(5), for interposing meritless and  
10 improper objections to discovery.

11  
12 Responding party's contentions and points and authorities

13 (Please provide this information within 7 days of receipt of this stipulation)  
14

15 3. Document Demand 34  
16

17 Verbatim request

18 All manuals, instructions, guidelines, and other DOCUMENTS setting forth  
19 policies and procedures to be used by EMPLOYEES of G&H on sending letters in  
20 the form of Exhibit A.  
21

22 Verbatim response

23 Objection. The request calls for confidential and proprietary information.  
24 Subject to and without waiving said objections, Defendant responds as follows: Once  
25 an appropriate protective order is entered, all non-privileged documents which are  
26 within Defendant's possession, custody and control and which relate to Plaintiff's  
27 claims and Defendant's defenses will be produced.  
28

Moving party's contentions and points and authorities

Objections of confidential and proprietary are merely boilerplate and not specific. *Mancia, supra*; *Beach v. City of Olathe, Kans.* 203 F.R.D. 489, 497 (D. Kan. 2001). This response, "notwithstanding the objections," is improper, as the response must either be that the document production "will be permitted as requested" or the objections. *Aikens v. Deluxe Fin'l Services, Inc., supra*, 217 F.R.D. at 539 (responding party still has duty to respond to extent request not objectionable). Rule 34 requires a party (entity) respond whether it will agree to produce all documents within the possession, custody or control. The response is unclear because the term "and" is used to join possession, custody and control, rather than "or." Rutter, *supra*, ¶ 11:1915, states: "the response must state the extent to which the responding party is willing to comply and the extent to which it is unable or unwilling to comply. Ambiguity about these matters often leads to unnecessary motions to compel and sanctions." See, above, for Plaintiff's concerns from *De Amaral, supra*.

After the Protective Order was entered on July 7, 2016, Defendant produced what appears to be an annotated copy of the FD CPA statutory text and marked it "confidential." Plaintiff's counsel disputed the designation, met and conferred with counsel, who never filed a motion to designate the document confidential, thus the designation of confidential of those pages has been lifted. Nevertheless, Plaintiff is unclear whether or not other documents might be produced at a later time or if documents have been withheld, as they were in *De Amaral, supra*. Thus, not only should the court grant the motion to compel production of all responsive documents and to amend the response to comply with Rule 34, and overrule (or strike) the objections, but the court should require Defendant and its counsel to pay Plaintiff's attorney's fees, pursuant to Rule 37(a)(5), for interposing meritless and improper objections to discovery.

Responding party's contentions and points and authorities

(Please provide this information within 7 days of receipt of this stipulation)

V. Affirmative defense of bona fide error

A. Interrogatory No. 15

Verbatim request

Describe YOUR maintenance of procedures reasonably adapted to avoid violation of the FDCPA or the RFDCPA.

Verbatim response

Objection. The interrogatory is overly broad, unduly burdensome and harassing. The interrogatory calls for information which is not relevant and not reasonably calculated to lead to the discovery of admissible evidence regarding Plaintiff's claims and Defendant's defenses. Subject to and without waiving said objections, Defendant responds as follows:

With regards to Plaintiff's allegation that Defendant violated the FDCPA and the Rosenthal Act when it misrepresented the status and involvement of the original creditor, Chase Manhattan Bank, in its September 9, 2015 letter, Defendant responds as follows:

When Defendant's employee wants to send a letter to a consumer, the following steps are taken: the employee pulls up the consumer's account in Defendant's computer system; the employee enters a code for the letter the employee wants to send (a code is assigned to each of Defendant's letters); the employee presses a "merge" button which causes information related to a consumer, including information related to the debt, to be automatically entered into various fields in the letter; the employee then presses a "print" button and the letter is printed with the



1 consumer's information; the employee verifies the case information, including names  
2 of parties; the employee signs the letter and arranges for it to be sent to the consumer.  
3 Defendant advises and trains its employees that they cannot make any changes to the  
4 letter after the employee presses the "merge" button unless he or she first speaks with  
5 a supervisor and the supervisor approves the change(s) to the letter. Defendant  
6 regularly trains its employees to follow the above procedures.

7 For accounts Defendant receives from its debt buyer clients, Defendant's policy  
8 and procedure is to sue in the name of the debt buyer client, and not the name of the  
9 original creditor. In these situations, when the employee presses the "merge" button  
10 to create a letter to a consumer, the debt buyer's name is automatically entered as the  
11 plaintiff's name in the "Re" line.

12 In the present action, Defendant received Plaintiff's account from Regreso.  
13 Regreso is a debt buyer. Based on Defendant's policy and procedure, when the  
14 September 9, 2015 letter was created (after the "merge" button was pressed), Regreso  
15 was automatically identified as the plaintiff. However, unbeknownst to Defendants,  
16 Defendant's employee then manually changed the plaintiff's name from Regreso to  
17 Chase Manhattan Bank. Defendant's employee made this change without first  
18 speaking with a supervisor and without first obtaining a supervisor's approval.  
19 Defendant alleges that as a result of its employee manually changing the plaintiff's  
20 name from Regreso to Chase Manhattan Bank, it unintentionally and mistakenly  
21 misrepresented the status and involvement of the original creditor, Chase Manhattan  
22 Bank, in its September 9, 2015 letter to Plaintiff. The error occurred due to the failure  
23 of Defendant's employee to follow Defendant's policy and procedure of speaking  
24 with a supervisor and obtain supervisor approval for the name change in the letter,  
25 failing to identify Regreso as the plaintiff in the September 9, 2015 letter and failing  
26 to verify the case information, including names of parties, before the letter was sent.

27 With regards to Plaintiff's allegation that Defendant violated the FDCPA and  
28 the Rosenthal Act when it sought a renewal of the judgment during a time that



1 Regreso was suspended by the California Secretary of State, Defendant responds as  
2 follows:

3 Defendants' policy and procedure is to rely on their clients' representation that  
4 the clients are in good standing with the California Secretary of State. Clients  
5 represent to Goldsmith & Hull that they are in good standing. If there is any issue in  
6 this regard, then Goldsmith & Hull asks their clients to provide proof. Typically  
7 either Michael Goldsmith or Jack Hull (now deceased) would be involved in this  
8 process.

9  
10 Moving party's contentions and points and authorities

11 Objections of not relevant, not reasonably calculated to lead to the discovery  
12 of admissible evidence, overly broad, unduly burdensome and harassing each lack  
13 merit, are merely boilerplate, and not specific. *Mancia, supra*; *Beach v. City of*  
14 *Olathe, Kans.* 203 F.R.D. 489, 497 (D. Kan. 2001). Also, they are waived by  
15 answering "subject to . . . said objections." *Communications Co., L.P. v. Comcast*  
16 *Cable Communications, LLC, supra*. The old boilerplate of "not reasonably  
17 calculated to lead" is no longer the standard in FRCP Rule 26(b)(1). "The former  
18 provision for discovery of relevant but inadmissible information that appears  
19 'reasonably calculated to lead to the discovery of admissible evidence' is also deleted.  
20 The phrase has been used by some, incorrectly, to define the scope of discovery. As  
21 the Committee Note to the 2000 amendments observed, use of the 'reasonably  
22 calculated' phrase to define the scope of discovery 'might swallow any other  
23 limitation on the scope of discovery.'" Fed. R. Civ. P. 26. Advisory Committee Notes  
24 2015 Amendment.

25 Despite being made aware during meet and confer of the foregoing authorities  
26 (as stated in interrogatory 10, Moving Party's Contentions and P&As), Defendant's  
27 refusal to withdraw the objections and answer this interrogatory without objection has  
28 resulted in this motion. There was no justification given by Defendant's counsel

1 during the meet and confer for not withdrawing the objections and responding, per  
2 the meet and confer. During meet and confer, Plaintiff agreed to limit defendant's  
3 response to the procedures that would have prevented the violations alleged in the  
4 complaint. It is unclear what (if any) information Defendant has failed to state under  
5 the objections, as explained in *Ramirez v. County of Los Angeles, supra*, 231 F.R.D.  
6 at 410. See, above, for Plaintiff's concerns from *De Amaral, supra*.

7 This is probative on Defendant's bona fide error (BFE) defense alleged in the  
8 amended answer to complaint. Particular instructive is the Ninth Circuit's *Reichert*  
9 *v. Nat'l Credit Sys., Inc.*, 531 F.3d 1002, 1006 (9th Cir. 2008), *quoting Johnson v*  
10 *Riddle*, 443 F.3d 723, 729 (10th Cir. 2006), which stated: "As the text of § 1692k(c)  
11 indicates, the procedures component of the bona fide error defense involves a  
12 two-step inquiry: first, whether the debt collector 'maintained'-i.e., actually employed  
13 or implemented-procedures to avoid errors; and, second, whether the procedures were  
14 'reasonably adapted' to avoid the specific error at issue." Thus, this interrogatory is  
15 relevant and the objections based on relevance or scope of discovery are meritless.

16 The allegations in the complaint cover three types of errors of which this  
17 answer addresses only two, with no analysis as to the form letter (Complaint, Exhibit  
18 A) referring to a wage assignment order, when no such order was entered in the state  
19 collection case. The response is not a full answer, contrary to Rule 33(b)(3).

20 Thus, not only should the court grant the motion to compel a further response  
21 and overrule (or strike) the objections, but the court should require Defendant and its  
22 counsel to pay Plaintiff's attorney's fees, pursuant to Rule 37(a)(5), for interposing  
23 meritless and improper objections to valid discovery requests.

24  
25 Responding party's contentions and points and authorities  
26 (Please provide this information within 7 days of receipt of this stipulation)

27  
28 B. Request for Production of Documents No. 39

1                   Verbatim request

2           All DOCUMENTS relating to the maintenance of procedures by any named  
3 defendant to ensure compliance with and to avoid violation of the FDCPA or to create  
4 a bona fide error defense.

5  
6                   Verbatim response

7           Objection. The request is overly broad, unduly burdensome and harassing. The  
8 request calls for confidential and proprietary information and calls for information  
9 which is not relevant and not reasonably calculated to lead to the discovery of  
10 admissible evidence regarding Plaintiff's claims and Defendant's defenses. Subject  
11 to and without waiving said objections, Defendant responds as follows: Once an  
12 appropriate protective order is entered, all non-privileged documents which are within  
13 Defendant's possession, custody and control and which relate to Plaintiff's claims and  
14 Defendant's defenses will be produced.

15  
16                   Moving party's contentions and points and authorities

17           Objections of not relevant, not reasonably calculated to lead to the discovery  
18 of admissible evidence, confidential, proprietary, overly broad, unduly burdensome  
19 and harassing each lack merit, are merely boilerplate, and not specific. *Mancia*,  
20 *supra*; *Beach v. City of Olathe, Kans.* 203 F.R.D. 489, 497 (D. Kan. 2001). Also, they  
21 are waived by answering "subject to . . . said objections." *Communications Co., L.P.*  
22 *v. Comcast Cable Communications, LLC, supra*. The old boilerplate of "not  
23 reasonably calculated to lead" is no longer the standard in FRCP Rule 26(b)(1). "The  
24 former provision for discovery of relevant but inadmissible information that appears  
25 'reasonably calculated to lead to the discovery of admissible evidence' is also deleted.  
26 The phrase has been used by some, incorrectly, to define the scope of discovery. As  
27 the Committee Note to the 2000 amendments observed, use of the 'reasonably  
28 calculated' phrase to define the scope of discovery 'might swallow any other

1 limitation on the scope of discovery.” Fed. R. Civ. P. 26. Advisory Committee Notes  
2 2015 Amendment.

3 This response, “notwithstanding the objections,” is improper, as the response  
4 must either be that the document production “will be permitted as requested” or the  
5 objections. *Aikens v. Deluxe Fin'l Services, Inc.*, *supra*, 217 F.R.D. at 539  
6 (responding party still has duty to respond to extent request not objectionable). Rule  
7 34 requires a party (entity) respond whether it will agree to produce all documents  
8 within the possession, custody or control. The response is unclear because the term  
9 “and” is used to join possession, custody and control, rather than “or.” Rutter, *supra*,  
10 ¶ 11:1915, states: “the response must state the extent to which the responding party  
11 is willing to comply and the extent to which it is unable or unwilling to comply.  
12 Ambiguity about these matters often leads to unnecessary motions to compel and  
13 sanctions.” See, above, for Plaintiff’s concerns from *De Amaral*, *supra*.

14 Despite being made aware during meet and confer of the foregoing authorities  
15 (as stated in interrogatory 10, Moving Party’s Contentions and P&As), Defendant’s  
16 refusal to withdraw the objections and answer this interrogatory without objection has  
17 resulted in this motion. There was no justification given by Defendant’s counsel  
18 during the meet and confer for not withdrawing the objections and responding, per  
19 the meet and confer. During meet and confer, Plaintiff agreed to limit defendant’s  
20 response to the procedures that would have prevented the violations alleged in the  
21 complaint.

22 This is probative on Defendant’s bona fide error (BFE) defense alleged in the  
23 amended answer to complaint. Particular instructive is the Ninth Circuit’s *Reichert*  
24 *v. Nat’l Credit Sys., Inc.*, 531 F.3d 1002, 1006 (9th Cir. 2008), *quoting Johnson v*  
25 *Riddle*, 443 F.3d 723, 729 (10th Cir. 2006). Thus, not only should the court grant the  
26 motion to compel a further response, document production, and overrule (or strike)  
27 the objections, but the court should require Defendant and its counsel to pay  
28

Plaintiff's attorney's fees, pursuant to Rule 37(a)(5), for interposing meritless and improper objections to valid discovery requests.

Responding party's contentions and points and authorities

(Please provide this information within 7 days of receipt of this stipulation)

Dated: September 13, 2016

HORWITZ, HORWITZ & ASSOC.  
CONSUMER LAW OFFICE OF  
ROBERT STEMPLER, APC

By: Robert Stempler,  
Co-Counsel for Plaintiff and  
Moving/Requesting Party

Dated: September 13, 2016

LEWIS BRISBOIS BISGAARD &  
SMITH LLP

By: LARISSA G. NEFULDA,  
STEPHEN H TURNER  
Counsel for defendant and  
Opposing/Responding Party  
WILLIAM I. GOLDSMITH

TABLE OF EXHIBITS

- 1.
- 2.
1. Plaintiff's complaint
2. Second Amended Answer to Complaint of Defendants G&H and William I. Goldsmith
3. First Amended Answer to Complaint of Defendant Regreso
4. Declaration of Robert Stempler in Support of Motion to Compel
5. Declaration of Larissa Nefulda in Opposition to Motion to Compel
6. Printout pertaining to Plaintiff from G&H's computer collection system
7. Scheduling and Case Management Order re Jury Trial (Dkt. # 31)
8. Amended Scheduling and Case Management Order re Jury Trial (Dkt. # 35)
9. Order Amending Scheduling And Case Management Order And Order re Motions for Class Certification [DKT. 35, 36] (Dkt. # 56)

**Nefulda, Larissa**

---

**From:** Nefulda, Larissa  
**Sent:** Wednesday, September 14, 2016 12:20 PM  
**To:** 'Robert Stempler'; Turner, Stephen; Rand Bragg; Robert Stempler  
**Subject:** RE: Karcauskas v Goldsmith, Joint Stipulations and Exhibits for Motions to Compel Discovery

Robert,

We request an additional week, or until September 20, 2016, to provide you with Defendants' portion of the Stipulation. The additional time is requested because Steve Turner is dealing with health and personal issues. I am working on a major motion in an unrelated case which has been taking up the majority of my time.

Thank you,  
Larissa



Larissa G. Nefulda  
Partner  
Larissa.Nefulda@lewisbrisbois.com  
633 W. 5th Street, Suite 4000  
Los Angeles, CA 90071  
T: 213.580.7933 F: 213.250.7900

LewisBrisbois.com



Representing clients from coast to coast. View our nationwide locations.

This e-mail may contain or attach privileged, confidential or protected information intended only for the use of the intended recipient. If you are not the intended recipient, any review or use of it is strictly prohibited. If you have received this e-mail in error, you are required to notify the sender, then delete this email and any attachment from your computer and any of your electronic devices where the message is stored.

**From:** [stemplerlaw@gmail.com](mailto:stemplerlaw@gmail.com) [<mailto:stemplerlaw@gmail.com>] **On Behalf Of** Robert Stempler

**Sent:** Tuesday, September 13, 2016 3:29 PM

**To:** Nefulda, Larissa; Turner, Stephen; Rand Bragg; Robert Stempler

**Subject:** Karcauskas v Goldsmith, Joint Stipulations and Exhibits for Motions to Compel Discovery

Larissa and Stephen:

See attached 3 PDFs:

1. Exhibits to be submitted with the Joint Stips
3. Joint Stip re Motion to Compel as to G&H,
3. Joint Stip re Motion to Compel as to Mr. Goldsmith.



#634  
Pursuant to our Joint Report, in particular Sections 2.1 and 2.2, please acknowledge receipt by email within 24 hours of transmission via email service.

Pursuant to Local Rule 37-2.2, within 7 days please email me with your declaration to be attached as Exhibit 5 (if you want) and your clients' responses to each of the items to be included in the Joint Stipulations, so that I can copy and paste it into the Joint Stipulations where appropriate.

Robert Stempler

Consumer Law Office of Robert Stempler  
A Professional Law Corporation

Phone: **(805) 246-2300**

**Nefulda, Larissa**

---

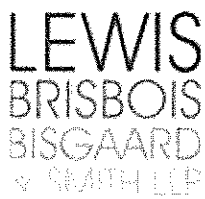
**From:** Nefulda, Larissa  
**Sent:** Wednesday, September 14, 2016 2:26 PM  
**To:** Robert Stempler (Robert@stopthecase.com); Rand Bragg (rand@horwitzlaw.com)  
**Cc:** Michael Goldsmith (mgoldsmith@goldsmithcalaw.com); Turner, Stephen  
**Subject:** Karcauskas v Goldsmith & Hull

Counsel,

This follows my voice message of a few minutes ago. Please be advised that we will be filing an ex parte application by tomorrow, 9/15/16, at 10 a.m. We will ask the court for one additional week to provide you with Defendants' portion of the Stipulation related to Plaintiff's motions to compel.

Please contact me with any questions or if you would like to discuss these issues.

Thanks,  
Larissa



Larissa G. Nefulda  
**Partner**  
Larissa.Nefulda@lewisbrisbois.com  
**633 W. 5th Street, Suite 4000**  
**Los Angeles, CA 90071**  
**T: 213.580.7933 F: 213.250.7900**

LewisBrisbois.com



Representing clients from coast to coast. View our nationwide locations.

This e-mail may contain or attach privileged, confidential or protected information intended only for the use of the intended recipient. If you are not the intended recipient, any review or use of it is strictly prohibited. If you have received this e-mail in error, you are required to notify the sender, then delete this email and any attachment from your computer and any of your electronic devices where the message is stored.

**Nefulda, Larissa**

---

**From:** stemplerlaw@gmail.com on behalf of Robert Stempler <Robert@stopthecase.com>  
**Sent:** Wednesday, September 14, 2016 12:36 PM  
**To:** Nefulda, Larissa  
**Cc:** Turner, Stephen; Rand Bragg  
**Subject:** Re: Karcauskas v Goldsmith, Joint Stipulations and Exhibits for Motions to Compel Discovery

Larissa:

I am not able to grant your request for an extension to send us the defendants' response for the Joint Stipulations.

**Robert Stempler**

Consumer Law Office of Robert Stempler  
A Professional Law Corporation

**Phone: (805) 246-2300**

On Wed, Sep 14, 2016 at 12:20 PM, Nefulda, Larissa <[Larissa.Nefulda@lewisbrisbois.com](mailto:Larissa.Nefulda@lewisbrisbois.com)> wrote:

Robert,

We request an additional week, or until September 20, 2016, to provide you with Defendants' portion of the Stipulation. The additional time is requested because Steve Turner is dealing with health and personal issues. I am working on a major motion in an unrelated case which has been taking up the majority of my time.

Thank you,

Larissa



**Larissa G. Nefulda**  
**Partner**

[Larissa.Nefulda@lewisbrisbois.com](mailto:Larissa.Nefulda@lewisbrisbois.com)

633 W. 5th Street, Suite 4000  
Los Angeles, CA 90071

T: 213.580.7933 F: 213.250.7900



Representing clients from coast to coast. View our nationwide locations.

This e-mail may contain or attach privileged, confidential or protected information intended only for the use of the intended recipient. If you are not the intended recipient, any review or use of it is strictly prohibited. If you have received this e-mail in error, you are required to notify the sender, then delete this email and any attachment from your computer and any of your electronic devices where the message is stored.

**From:** [stemplerlaw@gmail.com](mailto:stemplerlaw@gmail.com) [mailto:[stemplerlaw@gmail.com](mailto:stemplerlaw@gmail.com)] **On Behalf Of** Robert Stempler  
**Sent:** Tuesday, September 13, 2016 3:29 PM  
**To:** Nefulda, Larissa; Turner, Stephen; Rand Bragg; Robert Stempler  
**Subject:** Karcauskas v Goldsmith, Joint Stipulations and Exhibits for Motions to Compel Discovery

Larissa and Stephen:

See attached 3 PDFs:

1. Exhibits to be submitted with the Joint Stips
3. Joint Stip re Motion to Compel as to G&H,
3. Joint Stip re Motion to Compel as to Mr. Goldsmith.

Pursuant to our Joint Report, in particular Sections 2.1 and 2.2, please acknowledge receipt by email within 24 hours of transmission via email service.

Pursuant to Local Rule 37-2.2, within 7 days please email me with your declaration to be attached as Exhibit 5 (if you want) and your clients' responses to each of the items to be included in the Joint Stipulations, so that I can copy and paste it into the Joint Stipulations where appropriate.

Robert Stempler

Consumer Law Office of Robert Stempler

A Professional Law Corporation

Phone: **(805) 246-2300**

**Nefulda, Larissa**

---

**From:** Nefulda, Larissa  
**Sent:** Wednesday, September 14, 2016 2:26 PM  
**To:** Robert Stempler (Robert@stopthecase.com); Rand Bragg (rand@horwitzlaw.com)  
**Cc:** Michael Goldsmith (mgoldsmith@goldsmithcalaw.com); Turner, Stephen  
**Subject:** Karcauskas v Goldsmith & Hull

Counsel,

This follows my voice message of a few minutes ago. Please be advised that we will be filing an ex parte application by tomorrow, 9/15/16, at 10 a.m. We will ask the court for one additional week to provide you with Defendants' portion of the Stipulation related to Plaintiff's motions to compel.

Please contact me with any questions or if you would like to discuss these issues.

Thanks,  
Larissa



Larissa G. Nefulda  
Partner  
Larissa.Nefulda@lewisbrisbois.com  
633 W. 5th Street, Suite 4000  
Los Angeles, CA 90071  
T: 213.580.7933 F: 213.250.7900

LewisBrisbois.com



Representing clients from coast to coast. View our nationwide locations.

This e-mail may contain or attach privileged, confidential or protected information intended only for the use of the intended recipient. If you are not the intended recipient, any review or use of it is strictly prohibited. If you have received this e-mail in error, you are required to notify the sender, then delete this email and any attachment from your computer and any of your electronic devices where the message is stored.